17C-1-101. Title.

This title is known as the "Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act."

Amended by Chapter 279, 2010 General Session

17C-1-102. Definitions.

As used in this title:

(1) "Adjusted tax increment" means:

(a) for tax increment under a pre-July 1, 1993, project area plan, tax increment under Section 17C-1-403, excluding tax increment under Subsection 17C-1-403(3); and

(b) for tax increment under a post-June 30, 1993, project area plan, tax increment under Section 17C-1-404, excluding tax increment under Section 17C-1-406.

(2) "Affordable housing" means housing to be owned or occupied by persons and families of low or moderate income, as determined by resolution of the agency.

(3) "Agency" or "community development and renewal agency" means a separate body corporate and politic, created under Section 17C-1-201 or as a redevelopment agency under previous law, that is a political subdivision of the state, that is created to undertake or promote urban renewal, economic development, or community development, or any combination of them, as provided in this title, and whose geographic boundaries are coterminous with:

(a) for an agency created by a county, the unincorporated area of the county; and

(b) for an agency created by a city or town, the boundaries of the city or town.

(4) "Annual income" has the meaning as defined under regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Sec. 5.609, as amended or as superseded by replacement regulations.

(5) "Assessment roll" has the meaning as defined in Section 59-2-102.

(6) "Base taxable value" means:

(a) unless otherwise designated by the taxing entity committee in accordance with Subsection 17C-1-402(4)(b)(ix), for an urban renewal or economic development project area, the taxable value of the property within a project area from which tax increment will be collected, as shown upon the assessment roll last equalized before:

(i) for a pre-July 1, 1993, project area plan, the effective date of the project area plan;

(ii) for a post-June 30, 1993, project area plan:

(A) the date of the taxing entity committee's approval of the first project area budget; or

(B) if no taxing entity committee approval is required for the project area budget, the later of:

(I) the date the project area plan is adopted by the community legislative body; and

(II) the date the agency adopts the first project area budget;

(iii) for a project on an inactive industrial site, a year after the date on which the inactive industrial site is sold for remediation and development; or

(iv) for a project on an inactive airport site, a year after the later of:

(A) the date on which the inactive airport site is sold for remediation and development; and

(B) the date on which the airport that had been operated on the inactive airport site ceased operations; and

(b) for a community development project area, the agreed value specified in a resolution or interlocal agreement under Subsection 17C-4-201(2).

(7) "Basic levy" means the portion of a school district's tax levy constituting the minimum basic levy under Section 59-2-902.

(8) "Blight" or "blighted" means the condition of an area that meets the requirements of Subsection 17C-2-303(1).

(9) "Blight hearing" means a public hearing under Subsection 17C-2-102(1)(a)(i)(C) and Section 17C-2-302 regarding the existence or nonexistence of blight within the proposed urban renewal project area.

(10) "Blight study" means a study to determine the existence or nonexistence of blight within a survey area as provided in Section 17C-2-301.

(11) "Board" means the governing body of an agency, as provided in Section 17C-1-203.

(12) "Budget hearing" means the public hearing on a draft project area budget required under Subsection 17C-2-201(2)(d) for an urban renewal project area budget or Subsection 17C-3-201(2)(d) for an economic development project area budget.

(13) "Closed military base" means land within a former military base that the Defense Base Closure and Realignment Commission has voted to close or realign when that action has been sustained by the President of the United States and Congress.

(14) "Combined incremental value" means the combined total of all incremental values from all urban renewal project areas, except project areas that contain some or all of a military installation or inactive industrial site, within the agency's boundaries under adopted project area plans and adopted project area budgets at the time that a project area budget for a new urban renewal project area is being considered.

(15) "Community" means a county, city, or town.

(16) "Community development" means development activities within a community, including the encouragement, promotion, or provision of development.

(17) "Contest" means to file a written complaint in the district court of the county in which the person filing the complaint resides.

(18) "Economic development" means to promote the creation or retention of public or private jobs within the state through:

(a) planning, design, development, construction, rehabilitation, business relocation, or any combination of these, within a community; and

(b) the provision of office, industrial, manufacturing, warehousing, distribution, parking, public, or other facilities, or other improvements that benefit the state or a community.

(19) "Fair share ratio" means the ratio derived by:

(a) for a city or town, comparing the percentage of all housing units within the city or town that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units; or

(b) for the unincorporated part of a county, comparing the percentage of all housing units within the unincorporated county that are publicly subsidized income targeted housing units to the percentage of all housing units within the whole county that are publicly subsidized income targeted housing units.

(20) "Family" has the meaning as defined under regulations of the United States Department of Housing and Urban Development, 24 C.F.R. Section 5.403, as amended or as superseded by replacement regulations.

(21) "Greenfield" means land not developed beyond agricultural or forestry use.

(22) "Hazardous waste" means any substance defined, regulated, or listed as a hazardous substance, hazardous material, hazardous waste, toxic waste, pollutant, contaminant, or toxic substance, or identified as hazardous to human health or the environment, under state or federal law or regulation.

(23) "Housing funds" means the funds allocated in an urban renewal project area budget under Section 17C-2-203 for the purposes provided in Subsection 17C-1-412(1).

(24) (a) "Inactive airport site" means land that:

(i) consists of at least 100 acres;

(ii) is occupied by an airport:

(A) (I) that is no longer in operation as an airport; or

(II) (Aa) that is scheduled to be decommissioned; and

(Bb) for which a replacement commercial service airport is under construction; and

(B) that is owned or was formerly owned and operated by a public entity; and

(iii) requires remediation because:

(A) of the presence of hazardous waste or solid waste; or

(B) the site lacks sufficient public infrastructure and facilities, including public roads, electric service, water system, and sewer system, needed to support development of the site.

(b) "Inactive airport site" includes a perimeter of up to 2,500 feet around the land described in Subsection (24)(a).

(25) (a) "Inactive industrial site" means land that:

(i) consists of at least 1,000 acres;

(ii) is occupied by an inactive or abandoned factory, smelter, or other heavy industrial facility; and

(iii) requires remediation because of the presence of hazardous waste or solid waste.

(b) "Inactive industrial site" includes a perimeter of up to 1,500 feet around the land described in Subsection (25)(a).

(26) "Income targeted housing" means housing to be owned or occupied by a family whose annual income is at or below 80% of the median annual income for the county in which the housing is located.

(27) "Incremental value" means a figure derived by multiplying the marginal value of the property located within an urban renewal project area on which tax increment is collected by a number that represents the percentage of adjusted tax increment from that project area that is paid to the agency.

(28) "Loan fund board" means the Olene Walker Housing Loan Fund Board,

established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund.

(29) "Marginal value" means the difference between actual taxable value and base taxable value.

(30) "Military installation project area" means a project area or a portion of a project area located within a federal military installation ordered closed by the federal Defense Base Realignment and Closure Commission.

(31) (a) "Municipal building" means a building owned and operated by a municipality for the purpose of providing one or more primary municipal functions, including:

(i) a fire station;

(ii) a police station;

(iii) a city hall; or

(iv) a court or other judicial building.

(b) "Municipal building" does not include a building the primary purpose of which is cultural or recreational in nature.

(32) "Plan hearing" means the public hearing on a draft project area plan required under Subsection 17C-2-102(1)(a)(vi) for an urban renewal project area plan, Subsection 17C-3-102(1)(d) for an economic development project area plan, and Subsection 17C-4-102(1)(d) for a community development project area plan.

(33) "Post-June 30, 1993, project area plan" means a project area plan adopted on or after July 1, 1993, whether or not amended subsequent to its adoption.

(34) "Pre-July 1, 1993, project area plan" means a project area plan adopted before July 1, 1993, whether or not amended subsequent to its adoption.

(35) "Private," with respect to real property, means:

(a) not owned by the United States or any agency of the federal government, a public entity, or any other governmental entity; and

(b) not dedicated to public use.

(36) "Project area" means the geographic area described in a project area plan or draft project area plan where the urban renewal, economic development, or community development, as the case may be, set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(37) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a urban renewal or economic development project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected tax increment expected to be generated within the project area;

(c) the amount of tax increment expected to be shared with other taxing entities;

(d) the amount of tax increment expected to be used to implement the project area plan, including the estimated amount of tax increment to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the tax increment expected to be used to cover the cost of administering the project area plan;

(f) if the area from which tax increment is to be collected is less than the entire project area:

(i) the tax identification numbers of the parcels from which tax increment will be

collected; or

(ii) a legal description of the portion of the project area from which tax increment will be collected;

(g) for property that the agency owns and expects to sell, the expected total cost of the property to the agency and the expected selling price; and

(h) (i) for an urban renewal project area, the information required under Subsection 17C-2-201(1)(b); and

(ii) for an economic development project area, the information required under Subsection 17C-3-201(1)(b).

(38) "Project area plan" means a written plan under Chapter 2, Part 1, Urban Renewal Project Area Plan, Chapter 3, Part 1, Economic Development Project Area Plan, or Chapter 4, Part 1, Community Development Project Area Plan, as the case may be, that, after its effective date, guides and controls the urban renewal, economic development, or community development activities within a project area.

(39) "Property tax" includes privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

(40) "Public entity" means:

(a) the state, including any of its departments or agencies; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

(41) "Publicly owned infrastructure and improvements" means water, sewer, storm drainage, electrical, and other similar systems and lines, streets, roads, curb, gutter, sidewalk, walkways, parking facilities, public transportation facilities, and other facilities, infrastructure, and improvements benefitting the public and to be publicly owned or publicly maintained or operated.

(42) "Record property owner" or "record owner of property" means the owner of real property as shown on the records of the recorder of the county in which the property is located and includes a purchaser under a real estate contract if the contract is recorded in the office of the recorder of the county in which the property is located or the purchaser gives written notice of the real estate contract to the agency.

(43) "Superfund site":

(a) means an area included in the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sec. 9605; and

(b) includes an area formerly included in the National Priorities List, as described in Subsection (43)(a), but removed from the list following remediation that leaves on site the waste that caused the area to be included in the National Priorities List.

(44) "Survey area" means an area designated by a survey area resolution for study to determine whether one or more urban renewal projects within the area are feasible.

(45) "Survey area resolution" means a resolution adopted by the agency board under Subsection 17C-2-101(1)(a) designating a survey area.

(46) "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

(47) (a) "Tax increment" means, except as provided in Subsection (47)(b), the

difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which tax increment is to be collected, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(b) "Tax increment" does not include taxes levied and collected under Section 59-2-1602 on or after January 1, 1994, upon the taxable property in the project area unless:

(i) the project area plan was adopted before May 4, 1993, whether or not the project area plan was subsequently amended; and

(ii) the taxes were pledged to support bond indebtedness or other contractual obligations of the agency.

(48) "Taxing entity" means a public entity that levies a tax on a parcel or parcels of property located within a community.

(49) "Taxing entity committee" means a committee representing the interests of taxing entities, created as provided in Section 17C-1-402.

(50) "Unincorporated" means not within a city or town.

(51) (a) "Urban renewal" means the development activities under a project area plan within an urban renewal project area, including:

(i) planning, design, development, demolition, clearance, construction, rehabilitation, environmental remediation, or any combination of these, of part or all of a project area;

(ii) the provision of residential, commercial, industrial, public, or other structures or spaces, including recreational and other facilities incidental or appurtenant to them;

(iii) altering, improving, modernizing, demolishing, reconstructing, or rehabilitating, or any combination of these, existing structures in a project area;

(iv) providing open space, including streets and other public grounds and space around buildings;

(v) providing public or private buildings, infrastructure, structures, and improvements; and

(vi) providing improvements of public or private recreation areas and other public grounds.

(b) "Urban renewal" means "redevelopment," as defined under the law in effect before May 1, 2006, if the context requires.

Amended by Chapter 212, 2012 General Session
Amended by Chapter 235, 2012 General Session

17C-1-103. Limitations on applicability of title -- Amendment of previously adopted project area plan.

(1) Nothing in this title may be construed to:

(a) impose a requirement or obligation on an agency, with respect to a project area plan adopted or an agency action taken, that was not imposed by the law in effect at the time the project area plan was adopted or the action taken;

(b) prohibit an agency from taking an action that:

(i) was allowed by the law in effect immediately before an applicable amendment to this title;

(ii) is permitted or required under the project area plan adopted before the amendment; and

(iii) is not explicitly prohibited under this title;

(c) revive any right to challenge any action of the agency that had already expired; or

(d) require a project area plan to contain a provision that was not required by the law in effect at the time the project area plan was adopted.

(2) (a) A project area plan adopted before an amendment to this title becomes effective may be amended as provided in this title.

(b) Unless explicitly prohibited by this title, an amendment under Subsection (2)(a) may include a provision that is allowed under this title but that was not required or allowed by the law in effect before the applicable amendment.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-104. Actions not subject to land use laws.

(1) An action taken under this title is not subject to Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act or Title 17, Chapter 27a, County Land Use, Development, and Management Act.

(2) An ordinance or resolution adopted under this title is not a land use ordinance as defined in Sections 10-9a-103 and 17-27a-103.

Enacted by Chapter 359, 2006 General Session

17C-1-201. Creation of agency -- Name change.

(1) A community may, by ordinance adopted by its legislative body, approve the creation of a community development and renewal agency.

(2) (a) The community legislative body shall:

(i) after adopting an ordinance under Subsection (1), file with the lieutenant governor a copy of a notice, subject to Subsection (2)(b), of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of creation under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:

(A) the original notice of an impending boundary action;

(B) the original certificate of creation; and

(C) a certified copy of the ordinance approving the creation of the community development and renewal agency.

(b) The notice required under Subsection (2)(a)(i) shall state that the agency's boundaries are, and shall always be, coterminous with the boundaries of the community that created the agency.

(c) Upon the lieutenant governor's issuance of the certificate of creation under Section 67-1a-6.5, the agency is created and incorporated.

(d) Until the documents listed in Subsection (2)(a)(ii) are recorded in the office of the recorder of the county in which the property is located, an agency may not receive or spend tax increment funds.

(3) (a) An agency may approve a change in its name, whether to indicate it is a community development and renewal agency or otherwise, by:

(i) adopting a resolution approving a name change; and

(ii) filing with the lieutenant governor a copy of a notice of an impending name change, as defined in Section 67-1a-6.7, that meets the requirements of Subsection 67-1a-6.7(3).

(b) (i) Upon the lieutenant governor's issuance of a certificate of name change under Section 67-1a-6.7, the agency shall file with the recorder of the county in which the agency is located:

(A) the original notice of an impending name change;

(B) the original certificate of name change; and

(C) a certified copy of the resolution approving a name change.

(ii) Until the documents listed in Subsection (3)(b)(i) are recorded in the office of the county recorder, the agency may not operate under the new name.

Amended by Chapter 235, 2012 General Session

17C-1-202. Agency powers.

(1) A community development and renewal agency may:

(a) sue and be sued;

(b) enter into contracts generally;

(c) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(d) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(e) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) provide for urban renewal, economic development, and community development as provided in this title;

(g) receive tax increment as provided in this title;

(h) if disposing of or leasing land, retain controls or establish restrictions and covenants running with the land consistent with the project area plan;

(i) accept financial or other assistance from any public or private source for the agency's activities, powers, and duties, and expend any funds so received for any of the purposes of this title;

(j) borrow money or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this title and comply with any conditions of the loan or assistance;

(k) issue bonds to finance the undertaking of any urban renewal, economic development, or community development or for any of the agency's other purposes, including:

(i) reimbursing an advance made by the agency or by a public entity or the federal government to the agency;

(ii) refunding bonds to pay or retire bonds previously issued by the agency; and

(iii) refunding bonds to pay or retire bonds previously issued by the community that created the agency for expenses associated with an urban renewal, economic development, or community development project; and

(l) transact other business and exercise all other powers provided for in this title.

(2) The establishment of controls or restrictions and covenants under Subsection (1)(h) is a public purpose.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-203. Agency board -- Quorum.

(1) The governing body of an agency is a board consisting of the current members of the legislative body of the community that created the agency.

(2) A majority of board members constitutes a quorum for the transaction of agency business.

(3) An agency board may not adopt a resolution, pass a motion, or take any other official board action without the concurrence of at least a majority of the board members present at a meeting at which a quorum is present.

(4) The mayor of a municipality operating under a council-mayor form of government, as defined in Section 10-3b-102:

(a) serves as the executive director of an agency created by the municipality; and

(b) exercises the executive powers of the agency.

Amended by Chapter 125, 2008 General Session

17C-1-204. Urban renewal, economic development, and community development by an adjoining agency -- Requirements.

(1) An agency or community may, by resolution of its board or legislative body, respectively, authorize an agency to conduct urban renewal, economic development, or community development activities in a project area that includes an area within the authorizing agency's boundaries or within the boundaries of the authorizing community if the project area or community is contiguous to the boundaries of the other agency.

(2) If an agency board or community legislative body adopts a resolution under Subsection (1) authorizing another agency to undertake urban renewal, economic development, or community development activities in the authorizing agency's project area or within the boundaries of the authorizing community:

(a) the other agency may act in all respects as if the project area were within its own boundaries;

(b) the board of the other agency has all the rights, powers, and privileges with respect to the project area as if it were within its own boundaries; and

(c) the other agency may be paid tax increment funds to the same extent as if the project area were within its own boundaries.

(3) Each project area plan approved by the other agency for the project area that is the subject of a resolution under Subsection (1) shall be adopted by ordinance of the legislative body of the community in which the project area is located.

(4) (a) As used in this Subsection (4):

(i) "County agency" means an agency that was created by a county.

(ii) "Industrial property" means private real property:

(A) over half of which is located within the boundary of a town, as defined in Section 10-1-104; and

(B) comprises some or all of an inactive industrial site.

(iii) "Perimeter portion" means the portion of an inactive industrial site that is:

(A) part of the inactive industrial site because it lies within the perimeter described in Subsection 17C-1-102(24)(b); and

(B) located within the boundary of a city, as defined in Section 10-1-104.

(b) (i) Subject to Subsection (4)(b)(ii), a county agency may undertake urban renewal, economic development, or community development on industrial property if the record property owner of the industrial property submits a written request to the county agency to do so.

(ii) A county agency may not include a perimeter portion within a project area without the approval of the city in which the perimeter portion is located.

(c) If a county agency undertakes urban renewal, economic development, or community development on industrial property:

(i) the county agency may act in all respects as if the project area that includes the industrial property were within the county agency's boundary;

(ii) the board of the county agency has each right, power, and privilege with respect to the project area as if the project area were within the county agency's boundary; and

(iii) the county agency may be paid tax increment to the same extent as if the project area were within the county agency's boundary.

(d) A project area plan for a project on industrial property that is approved by the county agency shall be adopted by ordinance of the legislative body of the county in which the project area is located.

Amended by Chapter 212, 2012 General Session

17C-1-205. Change of project area from one community to another.

(1) For purposes of this section:

(a) "New agency" means the agency created by the new community.

(b) "New community" means the community in which the relocated project area is located after the change in community boundaries takes place.

(c) "Original agency" means the agency created by the original community.

(d) "Original community" means the community that adopted the project area plan that created the project area that has been relocated.

(e) "Relocated" means that a project area under a project area plan adopted by the original community has ceased to be located within that community and has become part of a new community because of a change in community boundaries through:

(i) a county or municipal annexation;

(ii) the creation of a new county;

(iii) a municipal incorporation, consolidation, dissolution, or boundary

adjustment; or

(iv) any other action resulting in a change in community boundaries.

(2) If a project area under a project area plan adopted by a community becomes relocated, the project area shall, for purposes of this title, be considered to remain in the original community until:

(a) the new community has created an agency;

(b) the original agency has transferred or assigned to the new agency the original agency's real property, rights, indebtedness, obligations, tax increment, and other assets and liabilities related to the relocated project area;

(c) the new agency by resolution approves the original agency's project area plan as the project area plan of the new agency; and

(d) the new community by ordinance adopts the project area plan that was approved by the new agency.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-206. Use of eminent domain prohibited -- Exception.

(1) Except as provided in Subsection (2), an agency may not use eminent domain to acquire property.

(2) An agency may use eminent domain to acquire:

(a) any interest in property within an urban renewal project area, subject to Chapter 2, Part 6, Eminent Domain in an Urban Renewal Project Area; and

(b) any interest in property that is owned by an agency board member or officer and located within a project area, if the board member or officer consents.

Amended by Chapter 379, 2007 General Session

17C-1-207. Public entities may assist with urban renewal, economic development, or community development project.

(1) In order to assist and cooperate in the planning, undertaking, construction, or operation of urban renewal, economic development, or community development within the area in which it is authorized to act, a public entity may:

(a) (i) provide or cause to be furnished:

(A) parks, playgrounds, or other recreational facilities;

(B) community, educational, water, sewer, or drainage facilities; or

(C) any other works which the public entity is otherwise empowered to undertake;

(ii) provide, furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, roadways, alleys, sidewalks, or other places;

(iii) in any part of the project area:

(A) (I) plan or replan any property within the project area;

(II) plat or replat any property within the project area;

(III) vacate a plat;

(IV) amend a plat; or

(V) zone or rezone any property within the project area; and

(B) make any legal exceptions from building regulations and ordinances;

(iv) purchase or legally invest in any of the bonds of an agency and exercise all of the rights of any holder of the bonds;

(v) enter into an agreement with another public entity concerning action to be taken pursuant to any of the powers granted in this title;

(vi) do any and all things necessary to aid or cooperate in the planning or carrying out of the urban renewal, economic development, or community development;

(vii) in connection with the project area plan, become obligated to the extent authorized and funds have been made available to make required improvements or construct required structures; and

(viii) lend, grant, or contribute funds to an agency for an urban renewal, economic development, or community development project; and

(b) 15 days after posting public notice:

(i) purchase or otherwise acquire property or lease property from an agency; or

(ii) sell, grant, convey, or otherwise dispose of the public entity's property or lease the public entity's property to an agency.

(2) Notwithstanding any law to the contrary, an agreement under Subsection (1)(a)(v) may extend over any period.

(3) A grant or contribution of funds from a public entity to an agency, or from an agency under a project area plan or project area budget, is not subject to the requirements of Section 10-8-2.

Amended by Chapter 235, 2012 General Session

17C-1-208. Agency funds to be accounted for separately from community funds.

Agency funds shall be accounted for separately from the funds of the community that created the agency.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-301. Agency property exempt from taxation -- Exception.

(1) Agency property acquired or held for purposes of this title is declared to be public property used for essential public and governmental purposes and, subject to Subsection (2), is exempt from all taxes of a public entity.

(2) The exemption in Subsection (1) does not apply to property that the agency leases to a lessee that is not entitled to a tax exemption with respect to the property.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-302. Agency property exempt from levy and execution sale -- Judgment against community or agency.

(1) (a) All agency property, including funds the agency owns or holds for purposes of this title, is exempt from levy and execution sale, and no execution or judicial process may issue against agency property. A judgment against an agency may not be a charge or lien upon agency property.

(b) Subsection (1)(a) does not apply to or limit the right of obligees to pursue

any remedies for the enforcement of any pledge or lien given by an agency on its funds or revenues.

(2) A judgment against the community that created the agency may not be a charge or lien upon agency property.

(3) A judgment against an agency may not be a charge or lien upon property of the community that created the agency.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-303. Summary of sale or other disposition of agency property -- Publication of summary.

(1) Upon the agency's sale, conveyance, grant, or other disposition of real property, the agency shall prepare a summary of the material provisions of the disposition.

(2) Each summary under Subsection (1) shall be a matter of public record.

(3) The agency shall, no later than one month after the day that the disposition is concluded:

(a) post each summary under Subsection (1) on the Utah Public Notice Website described in Section 63F-1-701; and

(b) (i) publish each summary under Subsection (1) at least once in a newspaper of general circulation in the agency's boundaries; or

(ii) if there is no newspaper of general circulation, post the summary in three conspicuous places within the agency's boundaries.

Amended by Chapter 279, 2010 General Session

17C-1-401. Agency receipt and use of tax increment and sales tax -- Distribution of tax increment and sales tax.

(1) An agency may receive and use tax increment and sales tax, as provided in this part.

(2) (a) The applicable length of time or number of years for which an agency is to be paid tax increment or sales tax under this part shall be measured:

(i) for a pre-July 1, 1993, project area plan, from the first tax year regarding which the agency accepts tax increment from the project area;

(ii) for a post-June 30, 1993, urban renewal or economic development project area plan:

(A) with respect to tax increment, from the first tax year for which the agency receives tax increment under the project area budget; or

(B) with respect to sales tax, as indicated in the interlocal agreement between the agency and the taxing entity that established the agency's right to receive sales tax; or

(iii) for a community development project area plan, as indicated in the resolution or interlocal agreement of a taxing entity that establishes the agency's right to receive tax increment or sales tax.

(b) Unless otherwise provided in a project area budget that is approved by a taxing entity committee, or in an interlocal agreement or resolution adopted by a taxing

entity, tax increment may not be paid to an agency for a tax year prior to the tax year following:

(i) for an urban renewal or economic development project area plan, the effective date of the project area plan; and

(ii) for a community development project area plan, the effective date of the interlocal agreement that establishes the agency's right to receive tax increment.

(3) With respect to a community development project area plan:

(a) a taxing entity or public entity may, by resolution or through interlocal agreement, authorize an agency to be paid any or all of that taxing entity or public entity's tax increment or sales tax for any period of time; and

(b) the resolution or interlocal agreement authorizing the agency to be paid tax increment or sales tax shall specify:

(i) the base taxable value of the project area; and

(ii) the method of calculating the amount of tax increment or sales tax to be paid to the agency.

(4) (a) (i) The boundaries of one project area may overlap and include the boundaries of an existing project area.

(ii) If a taxing entity committee is required to approve the project area budget of an overlapping project area described in Subsection (4)(a)(i), the agency shall, before the first meeting of the taxing entity committee at which the project area budget will be considered, inform each taxing entity of the location of the overlapping boundaries.

(b) (i) Before an agency may collect tax increment from the newly created overlapping portion of a project area, the agency shall inform the county auditor regarding the respective amount of tax increment that the agency is authorized to receive from the overlapping portion of each of the project areas.

(ii) The combined amount of tax increment described in Subsection (4)(b)(i) may not exceed 100% of the tax increment generated from a property located within the overlapping boundaries.

(c) Nothing in this Subsection (4) shall give an agency a right to collect or receive tax increment or sales tax that an agency is not otherwise entitled to collect under this title.

(d) The collection of tax increment or sales tax from an overlapping project area described in Subsection (4)(a) does not affect in any way an agency's use of tax increment or sales tax within the other overlapping project area.

(5) With the written consent of a taxing entity, an agency may be paid tax increment, from that taxing entity's tax revenues only, in a higher percentage or for a longer period of time, or both, than otherwise authorized under this title.

(6) (a) Subject to Section 17C-1-407, an agency is entitled to receive tax increment as authorized by:

(i) for a pre-July 1, 1993, project area plan, Section 17C-1-403;

(ii) for a post-June 30, 1993, project area plan:

(A) Section 17C-1-404 under a project area budget adopted by the agency in accordance with this title;

(B) a project area budget approved by the taxing entity committee and adopted by the agency in accordance with this title; or

(C) Section 17C-1-406; or

(iii) a resolution or interlocal agreement entered into under Section 17C-2-207, 17C-3-206, 17C-4-201, or 17C-4-202.

(b) A county that collects property tax on property located within a project area shall pay and distribute any tax increment:

(i) to an agency that the agency is entitled to collect; and

(ii) in accordance with Section 59-2-1365.

Amended by Chapter 235, 2012 General Session

17C-1-402. Taxing entity committee.

(1) Each agency that adopts or proposes to adopt a post-June 30, 1993, urban renewal or economic development project area plan shall, and any other agency may, cause a taxing entity committee to be created.

(2) (a) (i) Each taxing entity committee shall be composed of:

(A) two school district representatives appointed as provided in Subsection (2)(a)(ii);

(B) (I) in a county of the second, third, fourth, fifth, or sixth class, two representatives appointed by resolution of the legislative body of the county in which the agency is located; or

(II) in a county of the first class, one representative appointed by the county executive and one representative appointed by the legislative body of the county in which the agency is located;

(C) if the agency was created by a city or town, two representatives appointed by resolution of the legislative body of that city or town;

(D) one representative appointed by the State Board of Education; and

(E) one representative selected by majority vote of the legislative bodies or governing boards of all other taxing entities that levy a tax on property within the agency's boundaries, to represent the interests of those taxing entities on the taxing entity committee.

(ii) (A) If the agency boundaries include only one school district, that school district shall appoint the two school district representatives under Subsection (2)(a)(i)(A).

(B) If the agency boundaries include more than one school district, those school districts shall jointly appoint the two school district representatives under Subsection (2)(a)(i)(A).

(b) (i) Each taxing entity committee representative under Subsection (2)(a) shall be appointed within 30 days after the agency provides notice of the creation of the taxing entity committee.

(ii) If a representative is not appointed within the time required under Subsection (2)(b)(i), the agency board may appoint a person to serve on the taxing entity committee in the place of the missing representative until that representative is appointed.

(c) (i) A taxing entity committee representative may be appointed for a set term or period of time, as determined by the appointing authority under Subsection (2)(a)(i).

(ii) Each taxing entity committee representative shall serve until a successor is appointed and qualified.

(d) (i) Upon the appointment of each representative under Subsection (2)(a)(i), whether an initial appointment or an appointment to replace an already serving representative, the appointing authority shall:

(A) notify the agency in writing of the name and address of the newly appointed representative; and

(B) provide the agency a copy of the resolution making the appointment or, if the appointment is not made by resolution, other evidence of the appointment.

(ii) Each appointing authority of a taxing entity committee representative under Subsection (2)(a)(i) shall notify the agency in writing of any change of address of a representative appointed by that appointing authority.

(3) At its first meeting, a taxing entity committee shall adopt an organizing resolution:

(a) designating a chair and a secretary of the committee; and

(b) if the committee considers it appropriate, governing the use of electronic meetings under Section 52-4-207.

(4) (a) A taxing entity committee represents all taxing entities regarding:

(i) an urban renewal project area; or

(ii) an economic development project area.

(b) A taxing entity committee may:

(i) cast votes that will be binding on all taxing entities;

(ii) negotiate with the agency concerning a draft project area plan;

(iii) approve or disapprove:

(A) an urban renewal project area budget as provided in Section 17C-2-204; or

(B) an economic development project area budget as provided in Section 17C-3-203;

(iv) approve or disapprove amendments to a project area budget as provided in:

(A) Section 17C-2-206 for an urban renewal project area budget; or

(B) Section 17C-3-205 for an economic development project area budget;

(v) approve exceptions to the limits on the value and size of a project area imposed under this title;

(vi) approve:

(A) exceptions to the percentage of tax increment to be paid to the agency;

(B) the period of time that tax increment is to be paid to the agency; and

(C) exceptions to the requirement for an urban renewal or economic development project area budget to include a maximum cumulative dollar amount of tax increment that the agency may receive;

(vii) approve the use of tax increment for publicly owned infrastructure and improvements outside of an urban renewal or economic development project area that the agency and community legislative body determine to be of benefit to the urban renewal or economic development project area, as provided in Subsection 17C-1-409(1)(a)(iii)(D);

(viii) waive the restrictions imposed by Subsection 17C-2-202(1);

(ix) subject to Subsection (4)(c), designate in an approved urban renewal or economic development project area budget the base taxable value for that project area budget; and

(x) give other taxing entity committee approval or consent required or allowed

under this title.

(c) The base year used for calculation of the base taxable value in Subsection (4)(b)(ix) may not be a year that is earlier than the year during which the project area plan became effective.

(5) A quorum of a taxing entity committee consists of:

(a) if the project area is located within a city or town, five members; or

(b) if the project area is not located within a city or town, four members.

(6) Taxing entity committee approval, consent, or other action requires:

(a) the affirmative vote of a majority of all members present at a taxing entity committee meeting:

(i) at which a quorum is present; and

(ii) considering an action relating to a project area budget for, or approval of a finding of blight within, a project area or proposed project area that contains:

(A) an inactive industrial site;

(B) an inactive airport site; or

(C) a closed military base; or

(b) for any other action not described in Subsection (6)(a)(ii), the affirmative vote of two-thirds of all members present at a taxing entity committee meeting at which a quorum is present.

(7) (a) An agency may call a meeting of the taxing entity committee by sending written notice to the members of the taxing entity committee at least 10 days before the date of the meeting.

(b) Each notice under Subsection (7)(a) shall be accompanied by:

(i) the proposed agenda for the taxing entity committee meeting; and

(ii) if not previously provided and if they exist and are to be considered at the meeting:

(A) the project area plan or proposed plan;

(B) the project area budget or proposed budget;

(C) the analysis required under Subsection 17C-2-103(2) or 17C-3-103(2);

(D) the blight study;

(E) the agency's resolution making a finding of blight under Subsection 17C-2-102(1)(a) (ii)(B); and

(F) other documents to be considered by the taxing entity committee at the meeting.

(c) (i) An agency may not schedule a taxing entity committee meeting to meet on a day on which the Legislature is in session.

(ii) Notwithstanding Subsection (7)(c)(i), the taxing entity committee may, by unanimous consent, waive the scheduling restriction described in Subsection (7)(c)(i).

(8) (a) A taxing entity committee may not vote on a proposed project area budget or proposed amendment to a project area budget at the first meeting at which the proposed budget or amendment is considered unless all members of the taxing entity committee present at the meeting consent.

(b) A second taxing entity committee meeting to consider a project area budget or a proposed amendment to a project area budget may not be held within 14 days after the first meeting unless all members of the taxing entity committee present at the first meeting consent.

(9) (a) Except as provided in Subsection (9)(b), each taxing entity committee shall meet at least annually during the time that the agency receives tax increment under an urban renewal or economic development project area budget in order to review the status of the project area.

(b) A taxing entity committee is not required under Subsection (9)(a) to meet if the agency submits on or before November 1 of each year to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment, a report containing the following:

(i) an assessment of growth of incremental values for each active project area, including:

(A) the base year assessed value;

(B) the prior year's assessed value;

(C) the estimated current year assessed value for the project area; and

(D) a narrative description of the relative growth in assessed value within the project area;

(ii) a description of the amount of tax increment received by the agency and passed through to other taxing entities from each active project area, including:

(A) a comparison of the original forecasted amount of tax increment to actual receipts;

(B) a narrative discussion regarding the use of tax increment; and

(C) a description of the benefits derived by the taxing entities;

(iii) a description of activity within each active project area, including:

(A) a narrative of any significant development activity, including infrastructure development, site development, and vertical construction within the project area; and

(B) a narrative discussion regarding the status of any agreements for development within the project area;

(iv) a revised multi-year tax increment budget related to each active project area, including:

(A) the prior year's tax increment receipts;

(B) the base year value and adjusted base year value, as applicable;

(C) the applicable tax rates within the project area; and

(D) a description of private and public investment within the project area;

(v) an estimate of the tax increment to be paid to the agency for the calendar years ending December 31 and beginning the next January 1; and

(vi) any other project highlights included by the agency.

(10) Each taxing entity committee shall be governed by Title 52, Chapter 4, Open and Public Meetings Act.

(11) Each time a school district representative or a representative of the State Board of Education votes as a member of a taxing entity committee to allow an agency to be paid tax increment or to increase the amount or length of time that an agency may be paid tax increment, that representative shall, within 45 days after the vote, provide to the representative's respective school board an explanation in writing of the representative's vote and the reasons for the vote.

(12) (a) The auditor of each county in which the agency is located shall provide a written report to the taxing entity committee stating, with respect to property within

each urban renewal and economic development project area:

(i) the base taxable value, as adjusted by any adjustments under Section 17C-1-408; and

(ii) the assessed value.

(b) With respect to the information required under Subsection (12)(a), the auditor shall provide:

(i) actual amounts for each year from the adoption of the project area plan to the time of the report; and

(ii) estimated amounts for each year beginning the year after the time of the report and ending the time that the agency expects no longer to be paid tax increment from property within the urban renewal and economic development project area.

(c) The auditor of the county in which the agency is located shall provide a report under this Subsection (12):

(i) at least annually; and

(ii) upon request of the taxing entity committee, before a taxing entity committee meeting at which the committee will consider whether to allow the agency to be paid tax increment or to increase the amount of tax increment that the agency may be paid or the length of time that the agency may be paid tax increment.

(13) This section does not apply to a community development project area plan.

(14) A taxing entity committee resolution, whether adopted before, on, or after May 10, 2011, approving a blight finding, approving a project area budget, or approving an amendment to a project area budget:

(a) is final; and

(b) is not subject to repeal, amendment, or reconsideration unless the agency first consents by resolution to the proposed repeal, amendment, or reconsideration.

Amended by Chapter 80, 2013 General Session

17C-1-403. Tax increment under a pre-July 1, 1993, project area plan.

(1) Notwithstanding any other provision of law, this section applies retroactively to tax increment under all pre-July 1, 1993, project area plans, regardless of when the applicable project area was created or the applicable project area plan was adopted.

(2) (a) Beginning with the first tax year after April 1, 1983 for which an agency accepts tax increment, an agency is entitled to be paid:

(i) (A) for the first through the fifth tax years, 100% of tax increment;

(B) for the sixth through the tenth tax years, 80% of tax increment;

(C) for the eleventh through the fifteenth tax years, 75% of tax increment;

(D) for the sixteenth through the twentieth tax years, 70% of tax increment; and

(E) for the twenty-first through the twenty-fifth tax years, 60% of tax increment; or

(ii) for an agency that has caused a taxing entity committee to be created under Subsection 17C-1-402(1), any percentage of tax increment up to 100% and for any length of time that the taxing entity committee approves.

(b) Notwithstanding any other provision of this section:

(i) an agency is entitled to be paid 100% of tax increment from a project area for 32 years after April 1, 1983 to pay principal and interest on agency indebtedness

incurred before April 1, 1983, even though the size of the project area from which tax increment is paid to the agency exceeds 100 acres of privately owned property under a project area plan adopted on or before April 1, 1983; and

(ii) for up to 32 years after April 1, 1983, an agency debt incurred before April 1, 1983 may be refinanced and paid from 100% of tax increment if the principal amount of the debt is not increased in the refinancing.

(3) (a) For purposes of this Subsection (3), "additional tax increment" means the difference between 100% of tax increment for a tax year and the amount of tax increment an agency is paid for that tax year under the percentages and time periods specified in Subsection (2)(a).

(b) Notwithstanding the tax increment percentages and time periods in Subsection (2)(a), an agency is entitled to be paid additional tax increment for a period ending 32 years after the first tax year after April 1, 1983, for which the agency receives tax increment from the project area if:

(i) (A) the additional tax increment is used solely to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements;

(B) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before June 30, 2002;

(C) the additional tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement; and

(D) the agency board and the community legislative body have determined by resolution that the convention center or sports complex is:

(I) within and a benefit to a project area;

(II) not within but still a benefit to a project area; or

(III) within a project area in which substantially all of the land is publicly owned and a benefit to the community; or

(ii) (A) the additional tax increment is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area;

(B) construction of the recreational or cultural facility is commenced on or before December 31, 2005; and

(C) the additional tax increment is pledged on or before July 1, 2005, to pay all or part of the cost of the land for and the installation and construction of the recreational or cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility.

(c) Notwithstanding Subsection (3)(b)(ii), a school district may not, without its consent, be paid less tax increment because of application of Subsection (3)(b)(ii) than it would have been paid without that subsection.

(4) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection (2) for any of the uses indicated in Subsection

(3).

Amended by Chapter 80, 2013 General Session

17C-1-404. Tax increment under a post-June 30, 1993 project area plan.

(1) This section applies to tax increment under a post-June 30, 1993 project area plan adopted before May 1, 2006, only.

(2) An agency board may provide in the project area budget for the agency to be paid:

(a) if 20% of the project area budget is allocated for housing under Section 17C-2-203:

(i) 100% of annual tax increment for 15 years;

(ii) 75% of annual tax increment for 24 years; or

(iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time; or

(b) if 20% of the project area budget is not allocated for housing under Section 17C-2-203:

(i) 100% of annual tax increment for 12 years;

(ii) 75% of annual tax increment for 20 years; or

(iii) if approved by the taxing entity committee, any percentage of tax increment up to 100%, or any specified dollar amount, for any period of time.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-405. Tax increment under a project area plan adopted on or after May 1, 2006.

(1) This section applies to tax increment under a project area plan adopted on or after May 1, 2006.

(2) Subject to the approval of the taxing entity committee, an agency board may provide in the urban renewal or economic development project area budget for the agency to be paid:

(a) for an urban renewal project area plan that proposes development of an inactive industrial site or inactive airport site, at least 60% of tax increment for at least 20 years; or

(b) for each other project, any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.

(3) A resolution or interlocal agreement relating to an agency's use of tax increment for a community development project area plan may provide for the agency to be paid any percentage of tax increment up to 100% or any specified dollar amount of tax increment for any period of time.

Amended by Chapter 387, 2009 General Session

17C-1-406. Additional tax increment under certain post-June 30, 1993 project area plans.

(1) This section applies to a post-June 30, 1993 project area plan adopted

before May 1, 2006.

(2) An agency may, without the approval of the taxing entity committee, elect to be paid 100% of annual tax increment for each year beyond the periods specified in Subsection 17C-1-404(2) to a maximum of 25 years, including the years the agency is paid tax increment under Subsection 17C-1-404(2), if:

(a) for an agency in a city in which is located all or a portion of an interchange on I-15 or that would directly benefit from an interchange on I-15:

(i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the installation, construction, or reconstruction of:

(A) an interchange on I-15, whether or not the interchange is located within a project area; or

(B) frontage and other roads connecting to the interchange, as determined by the Department of Transportation created under Section 72-1-201 and the Transportation Commission created under Section 72-1-301, whether or not the frontage or other road is located within a project area; and

(ii) the installation, construction, or reconstruction of the interchange or frontage and other roads has begun on or before June 30, 2002; or

(b) for an agency in a city of the first or second class:

(i) the tax increment paid to the agency during the additional years is used to pay some or all of the cost of the land for and installation and construction of a recreational facility, as defined in Section 59-12-702, or a cultural facility, including parking and infrastructure improvements related to the recreational or cultural facility, whether or not the facility is located within a project area; and

(ii) the installation or construction of the recreational or cultural facility has begun on or before June 30, 2002.

(3) Notwithstanding any other provision of this section, an agency may use tax increment received under Subsection 17C-1-404(2) for any of the uses indicated in this section.

(4) Notwithstanding Subsection (2), a school district may not, without its consent, receive less tax increment because of application of Subsection (2) than it would have received without that subsection.

Enacted by Chapter 359, 2006 General Session

17C-1-407. Limitations on tax increment.

(1) (a) If the development of retail sales of goods is the primary objective of an urban renewal project area, tax increment from the urban renewal project area may not be paid to or used by an agency unless a finding of blight is made under Chapter 2, Part 3, Blight Determination in Urban Renewal Project Areas.

(b) Development of retail sales of goods does not disqualify an agency from receiving tax increment.

(c) After July 1, 2005, an agency may not be paid or use tax increment generated from the value of property within an economic development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.

(2) (a) An agency may not be paid any portion of a taxing entity's taxes resulting

from an increase in the taxing entity's tax rate that occurs after the taxing entity committee approves the project area budget unless, at the time the taxing entity committee approves the project area budget, the taxing entity committee approves payment of those increased taxes to the agency.

(b) If the taxing entity committee does not approve of payment of the increased taxes to the agency under Subsection (2)(a), the county shall distribute to the taxing entity the taxes attributable to the tax rate increase in the same manner as other property taxes.

(c) Notwithstanding any other provision of this section, if, prior to tax year 2013, increased taxes are paid to an agency without the approval of the taxing entity committee, and notwithstanding the law at the time that the tax was collected or increased:

(i) the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased taxes from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;

(ii) the county is not liable to a taxing entity or any other person or entity for the increased taxes that were paid to the agency; and

(iii) tax increment, including the increased taxes, shall continue to be paid to the agency subject to the same number of tax years, percentage of tax increment, and cumulative dollar amount of tax increment as approved in the project area budget and previously paid to the agency.

(3) Except as the taxing entity committee otherwise agrees, an agency may not receive tax increment under an urban renewal or economic development project area budget adopted on or after March 30, 2009:

(a) that exceeds the percentage of tax increment or cumulative dollar amount of tax increment specified in the project area budget; or

(b) for more tax years than specified in the project area budget.

Amended by Chapter 80, 2013 General Session

17C-1-408. Base taxable value to be adjusted to reflect other changes.

(1) (a) (i) As used in this Subsection (1), "qualifying decrease" means:

(A) a decrease of more than 20% from the previous tax year's levy; or

(B) a cumulative decrease over a consecutive five-year period of more than 100% from the levy in effect at the beginning of the five-year period.

(ii) The year in which a qualifying decrease under Subsection (1)(a)(i)(B) occurs is the fifth year of the five-year period.

(b) If there is a qualifying decrease in the minimum basic school levy under Section 59-2-902 that would result in a reduction of the amount of tax increment to be paid to an agency:

(i) the base taxable value of taxable property within the project area shall be reduced in the year of the qualifying decrease to the extent necessary, even if below zero, to provide the agency with approximately the same amount of tax increment that would have been paid to the agency each year had the qualifying decrease not occurred; and

(ii) the amount of tax increment paid to the agency each year for the payment of bonds and indebtedness may not be less than what would have been paid to the agency if there had been no qualifying decrease.

(2) (a) The amount of the base taxable value to be used in determining tax increment shall be:

(i) increased or decreased by the amount of an increase or decrease that results from:

(A) a statute enacted by the Legislature or by the people through an initiative;

(B) a judicial decision;

(C) an order from the State Tax Commission to a county to adjust or factor its assessment rate under Subsection 59-2-704(2);

(D) a change in exemption provided in Utah Constitution Article XIII, Section 2, or Section 59-2-103; or

(E) an increase or decrease in the percentage of fair market value, as defined under Section 59-2-102; and

(ii) reduced for any year to the extent necessary, even if below zero, to provide an agency with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(A) in that year there is a decrease in the county's certified tax rate under Subsection 59-2-924.2(2) or (3)(a);

(B) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(C) the decrease would result in a reduction of the amount of tax increment to be paid to the agency.

(b) Notwithstanding an increase or decrease under Subsection (2)(a), the amount of tax increment paid to an agency each year for payment of bonds or other indebtedness may not be less than would have been paid to the agency each year if there had been no increase or decrease under Subsection (2)(a).

Amended by Chapter 61, 2008 General Session
Amended by Chapter 231, 2008 General Session
Amended by Chapter 236, 2008 General Session

17C-1-409. Allowable uses of tax increment and sales tax.

(1) (a) An agency may use tax increment and sales tax proceeds received from a taxing entity:

(i) for any of the purposes for which the use of tax increment is authorized under this title;

(ii) for administrative, overhead, legal, and other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) to pay for, including financing or refinancing, all or part of:

(A) urban renewal activities in the project area from which the tax increment funds are collected, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) economic development or community development activities, including

environmental remediation activities occurring before or after adoption of the project area plan, in the project area from which the tax increment funds are collected;

(C) housing expenditures, projects, or programs as provided in Section 17C-1-411 or 17C-1-412;

(D) subject to Subsections (1)(c) and (6), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the tax increment funds were collected; and

(E) subject to Subsection (1)(d), the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the tax increment funds were collected if the agency board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements are of benefit to the project area; or

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(f), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area.

(b) The determination of the agency board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use tax increment or sales tax proceeds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal or economic development project area plan without the consent of the community legislative body.

(d) An agency may not use tax increment or sales tax proceeds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(E) under an urban renewal or economic development project area plan without the consent of the community legislative body and the taxing entity committee.

(e) (i) Subject to Subsection (1)(e)(ii), an agency may loan tax increment or sales tax proceeds, or a combination of tax increment and sales tax proceeds, from a project area fund to another project area fund if:

(A) the agency's board approves; and

(B) the legislative body of each community that created the agency approves.

(ii) An agency may not loan tax increment or sales tax proceeds, or a combination of tax increment and sales tax proceeds, under Subsection (1)(e)(i) unless the projections for the future tax increment or sales tax proceeds of the borrowing project area are sufficient to repay the loan amount prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's plan.

(iii) If a borrowing project area's funds are not sufficient to repay a loan made under Subsection (1)(e)(i) prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's plan, the community that created the agency shall repay the loan to the loaning project area's fund prior to when the tax increment or sales tax proceeds are intended for use under the loaning project area's

plan, unless the taxing entity committee adopts a resolution to waive this requirement.

(f) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(2) Sales tax proceeds that an agency receives from another public entity are not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.

(3) An agency may use sales tax proceeds it receives under a resolution or interlocal agreement under Section 17C-4-201 for the uses authorized in the resolution or interlocal agreement.

(4) (a) An agency may contract with the community that created the agency or another public entity to use tax increment to reimburse the cost of items authorized by this title to be paid by the agency that have been or will be paid by the community or other public entity.

(b) If land has been or will be acquired or the cost of an improvement has been or will be paid by another public entity and the land or improvement has been or will be leased to the community, an agency may contract with and make reimbursement from tax increment funds to the community.

(5) An agency created by a city of the first or second class may use tax increment from one project area in another project area to pay all or part of the value of the land for and the cost of the installation and construction of a publicly or privately owned convention center or sports complex or any building, facility, structure, or other improvement related to the convention center or sports complex, including parking and infrastructure improvements, if:

(a) construction of the convention center or sports complex or related building, facility, structure, or other improvement is commenced on or before December 31, 2012; and

(b) the tax increment is pledged to pay all or part of the value of the land for and the cost of the installation and construction of the convention center or sports complex or related building, facility, structure, or other improvement.

(6) Notwithstanding any other provision of this title, an agency may not use tax increment to construct municipal buildings unless the taxing entity committee adopts a resolution to waive this requirement.

(7) Notwithstanding any other provision of this title, an agency may not use tax increment under an urban renewal or economic development project area plan, to pay any of the cost of the land, infrastructure, or construction of a stadium or arena constructed after March 1, 2005, unless the tax increment has been pledged for that purpose before February 15, 2005.

(8) (a) An agency may not use tax increment to pay the debt service of or any other amount related to a bond issued or other obligation incurred if the bond was issued or the obligation was incurred:

(i) by an interlocal entity created under Title 11, Chapter 13, Interlocal Cooperation Act;

(ii) on or after March 30, 2009; and

(iii) to finance a telecommunication facility.

(b) Subsection (8)(a) may not be construed to prohibit the refinancing, restatement, or refunding of a bond issued before March 30, 2009.

Amended by Chapter 43, 2011 General Session

17C-1-410. Agency may make payments to other taxing entities.

(1) Subject to Subsection (3), an agency may grant tax increment or other agency funds to a taxing entity to offset some or all of the tax revenues that the taxing entity did not receive because of tax increment paid to the agency.

(2) (a) Subject to Subsection (3), an agency may use tax increment or other agency funds to pay to a school district an amount of money that the agency determines to be appropriate to alleviate a financial burden or detriment borne by the school district because of the urban renewal, economic development, or community development.

(b) Each agency that agrees to pay money to a school district under the authority of Subsection (2)(a) shall provide a copy of that agreement to the State Board of Education.

(3) (a) If an agency intends to pay agency funds to one or more taxing entities under Subsection (1) or (2) but does not intend to pay funds to all taxing entities in proportionally equal amounts, the agency shall provide written notice to each taxing entity of its intent.

(b) (i) A taxing entity receiving notice under Subsection (3)(a) may elect not to have its tax increment collected and used to pay funds to other taxing entities under this section.

(ii) Each election under Subsection (3)(b)(i) shall be:

(A) in writing; and

(B) delivered to the agency within 30 days after the taxing entity's receipt of the notice under Subsection (3)(a).

(c) If a taxing entity makes an election under Subsection (3)(b), the portion of that taxing entity's tax increment that would have been used by the agency to pay funds under this section to one or more other taxing entities may not be collected by the agency.

Amended by Chapter 364, 2007 General Session

17C-1-411. Use of tax increment for housing and for relocating mobile home park residents -- Funds to be held in separate accounts.

(1) An agency may:

(a) use tax increment from a project area to pay all or part of the value of the land for and the cost of installation, construction, and rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries; and

(b) use up to 20% of tax increment:

(i) outside of project areas for the purpose of:

(A) replacing housing units lost by urban renewal, economic development, or

community development; or

(B) increasing, improving, and preserving generally the affordable housing supply within the boundary of the agency; or

(ii) for relocating mobile home park residents displaced by development, whether inside or outside a project area.

(2) (a) Each agency shall separately account for funds allocated under this section.

(b) Interest earned by the housing fund and any payments or repayments made to the agency for loans, advances, or grants of any kind from the fund, shall accrue to the housing fund.

(c) Each agency designating a housing fund under this section shall use the fund for:

(i) the purposes set forth in this section; or

(ii) the purposes set forth in this title relating to the urban renewal, economic development, or community development project area from which the funds originated.

(3) An agency may lend, grant, or contribute funds from the housing fund to a person, public entity, housing authority, private entity or business, or nonprofit corporation for affordable housing.

Amended by Chapter 387, 2009 General Session

17C-1-412. Use of funds allocated for housing -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing funds.

(1) (a) Each agency shall use all funds allocated for housing under Section 17C-2-203 or 17C-3-202 to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where blight has been found to exist;

(vi) replace housing units lost as a result of the urban renewal, economic development, or community development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the

purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi); or

(ix) relocate mobile home park residents displaced by an urban renewal, economic development, or community development project.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of housing funds to:

(i) the community for use as provided under Subsection (1)(a);

(ii) the housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community; or

(iii) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community.

(2) The agency or community shall separately account for the housing funds, together with all interest earned by the housing funds and all payments or repayments for loans, advances, or grants from the housing funds.

(3) An agency may:

(a) issue bonds from time to time to finance a housing undertaking under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (3)(a) previously issued by the agency.

(4) An agency:

(a) shall allocate housing funds each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget; and

(b) is relieved, to the extent tax increment is insufficient in a year, of an obligation to allocate housing funds for the year tax increment is insufficient.

(5) (a) Except as provided in Subsection (4), if an agency fails to provide housing funds in accordance with the project area budget and, if applicable, the housing plan adopted under Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to provide the housing funds.

(b) In an action under Subsection (5)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency its attorney fees, unless the court finds that the action was frivolous.

Amended by Chapter 212, 2012 General Session

17C-1-413. Base taxable value for new tax.

For purposes of calculating tax increment with respect to a tax that a taxing entity

levies for the first time after the effective date of the project area plan, the base taxable value shall be used, subject to any adjustments under Section 17C-1-408.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-414. Project area boundaries that divide a tax parcel -- Deletion of parcel from tax increment calculation.

(1) If the boundaries of a project area, as described in the project area plan, include part of a tax parcel and exclude part of the same tax parcel, the agency shall provide the assessor of the county in which the project area is located a metes and bounds description of the part of the tax parcel included within the project area boundaries.

(2) If an agency fails to comply with the requirement of Subsection (1), the assessor of the county in which the tax parcel is located may exclude that parcel from the project area for purposes of calculating tax increment to be paid to the agency until the agency complies with the requirement of Subsection (1).

Enacted by Chapter 359, 2006 General Session

17C-1-415. Obligations of agencies that use tax increment to pay for communication infrastructure or facility.

An agency that uses tax increment on or after March 30, 2009 to pay for communication infrastructure or a communication facility:

(1) may not make or grant any undue or unreasonable preference or advantage to a provider of communication service with respect to the communication infrastructure or communication facility for which the tax increment is used; and

(2) shall allow the communication infrastructure and facilities for which tax increment is used to be used by any other provider of communication service on a fair, equitable, and nondiscriminatory basis.

Enacted by Chapter 387, 2009 General Session

17C-1-501. Resolution authorizing issuance of agency bonds -- Characteristics of bonds.

(1) An agency may not issue bonds under this part unless the agency board first adopts a resolution authorizing their issuance.

(2) (a) As provided in the agency resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the agency resolution authorizing their issuance or the trust indenture under which they are

issued.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-502. Sources from which bonds may be made payable -- Agency powers regarding bonds.

(1) The principal and interest on bonds issued by an agency may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds of the agency derived from or held in connection with its undertaking and carrying out urban renewal, economic development, or community development;

(d) tax increment funds;

(e) agency revenues generally;

(f) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of urban renewal, economic development, or community development; or

(g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).

(2) In connection with the issuance of agency bonds, an agency may:

(a) pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence;

(b) encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired; and

(c) make the covenants and take the action that may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-503. Signature of officer who leaves office.

If an agency officer whose signature appears on a bond issued under this part leaves office before delivery of the bond, the signature shall continue to be valid as if the official had remained in office until delivery of the bond.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-504. Contesting the legality of resolution authorizing bonds -- Time limit -- Presumption.

(1) Any person may contest the legality of the resolution authorizing issuance of the bonds or any provisions for the security and payment of the bonds for a period of 30 days after:

(a) publication of the resolution authorizing the bonds; or

(b) publication of a notice of bonds containing substantially the items required under Subsection 11-14-316(2).

(2) After the 30-day period under Subsection (1), no lawsuit or other proceeding may be brought contesting the regularity, formality, or legality of the bonds for any reason.

(3) In a lawsuit or other proceeding involving the question of whether a bond issued under this part is valid or enforceable or involving the security for a bond, if a bond recites that the agency issued the bond in connection with an urban renewal, economic development, or community development project:

(a) the bond shall be conclusively presumed to have been issued for that purpose; and

(b) the project area plan and project area shall be conclusively presumed to have been properly formed, adopted, planned, located, and carried out in accordance with this title.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-505. Authority to purchase agency bonds.

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by an agency under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of agency bonds of any duty to exercise reasonable care in selecting securities.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-506. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

(1) A member of an agency board or other person executing an agency bond is not liable personally on the bond.

(2) (a) A bond issued by an agency is not a general obligation or liability of the community, the state, or any of its political subdivisions and does not constitute a charge against their general credit or taxing powers.

(b) A bond issued by an agency is not payable out of any funds or properties other than those of the agency.

(c) The community, the state, and its political subdivisions may not be liable on a bond issued by an agency.

(d) A bond issued by an agency does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by an agency under this part is fully negotiable.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-507. Obligee rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond

issued by an agency under this part and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel an agency and its board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the agency with or for the benefit of the obligee, and require the agency to carry out the covenants and agreements of the agency and to fulfill all duties imposed on the agency by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, an agency board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b) (i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of an urban renewal, economic development, or community development project to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of an agency's urban renewal, economic development, or community development project and of the rents and profits from it; and

(C) require the agency and its board and employees to account as if the agency and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the urban renewal, economic development, or community development project or any part of it, operate and maintain it, and collect and receive all fees, rents, revenues, or other charges arising from it after the receiver's appointment; and

(B) shall keep money collected as receiver for the agency in separate accounts and apply it pursuant to the agency obligations as the court directs.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-508. Bonds exempt from taxes -- Agency may purchase its own bonds.

(1) A bond issued by an agency under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.

(2) An agency may purchase its own bonds at a price that its board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by an agency on its rents, fees, grants, properties, or revenues.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-601. Annual agency budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) Each agency shall prepare and its board adopt an annual budget of revenues and expenditures for the agency for each fiscal year.

(2) Each annual agency budget shall be adopted:

(a) for an agency created by a city or town, before June 22; or

(b) for an agency created by a county, before December 15.

(3) The agency's fiscal year shall be the same as the fiscal year of the community that created the agency.

(4) (a) Before adopting an annual budget, each agency board shall hold a public hearing on the annual budget.

(b) Each agency shall provide notice of the public hearing on the annual budget by:

(i) (A) publishing at least one notice in a newspaper of general circulation within the agency boundaries, one week before the public hearing; or

(B) if there is no newspaper of general circulation within the agency boundaries, posting a notice of the public hearing in at least three public places within the agency boundaries; and

(ii) publishing notice on the Utah Public Notice Website created in Section 63F-1-701, at least one week before the public hearing.

(c) Each agency shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each agency budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of agency personnel.

(6) (a) Within 90 days after adopting an annual budget, each agency board shall file a copy of the annual budget with the auditor of the county in which the agency is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

Amended by Chapter 90, 2010 General Session

17C-1-602. Amending the agency annual budget.

(1) An agency board may by resolution amend an annual agency budget.

(2) An amendment of the annual agency budget that would increase the total expenditures may be made only after public hearing by notice published as required for initial adoption of the annual budget.

(3) An agency may not make expenditures in excess of the total expenditures established in the annual budget as it is adopted or amended.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-603. Agency report.

(1) (a) Unless an agency submits a report to the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment as provided under Subsection 17C-1-402(9)(b), on or before November 1 of each year, each agency shall prepare and file a report with the county auditor, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.

(b) The requirement of Subsection (1)(a) to file a copy of the report with the state as a taxing entity is met if the agency files a copy with the State Tax Commission and the state auditor.

(2) Each report under Subsection (1) shall contain:

(a) an estimate of the tax increment to be paid to the agency for the calendar year ending December 31;

(b) an estimate of the tax increment to be paid to the agency for the calendar year beginning the next January 1;

(c) a narrative description of each active project area within the agency's boundaries;

(d) a narrative description of any significant activity related to each active project area that occurred during the immediately preceding fiscal year;

(e) a summary description of the overall project timeline for each active project area;

(f) any other information specifically requested by the taxing entity committee or required by the project area plan or budget; and

(g) any other information included by the agency.

(3) A report prepared in accordance with this section:

(a) is for informational purposes; and

(b) does not alter the amount of tax increment that an agency is entitled to collect from a project area.

Amended by Chapter 43, 2011 General Session

17C-1-604. Audit requirements.

Each agency shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-605. Audit report.

(1) Each agency required to be audited under Section 17C-1-604 shall, within 180 days after the end of the agency's fiscal year, file a copy of the audit report with the county auditor, the State Tax Commission, the State Board of Education, and each

taxing entity that levies a tax on property from which the agency collects tax increment.

(2) Each audit report under Subsection (1) shall include:

(a) the tax increment collected by the agency for each project area;

(b) the amount of tax increment paid to each taxing entity under Section 17C-1-410;

(c) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the agency's project areas; and

(d) the actual amount expended for:

(i) acquisition of property;

(ii) site improvements or site preparation costs;

(iii) installation of public utilities or other public improvements; and

(iv) administrative costs of the agency.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-606. County auditor report on project areas.

(1) (a) On or before March 31 of each year, the auditor of each county in which an agency is located shall prepare a report on the project areas within each agency.

(b) The county auditor shall send a copy of each report under Subsection (1)(a) to the agency that is the subject of the report, the State Tax Commission, the State Board of Education, and each taxing entity that levies a tax on property from which the agency collects tax increment.

(2) Each report under Subsection (1)(a) shall report:

(a) the total assessed property value within each project area for the previous tax year;

(b) the base taxable value of property within each project area for the previous tax year;

(c) the tax increment available to be paid to the agency for the previous tax year;

(d) the tax increment requested by the agency for the previous tax year; and

(e) the tax increment paid to the agency for the previous tax year.

(3) Within 30 days after a request by an agency, the State Tax Commission, the State Board of Education, or any taxing entity that levies a tax on property from which the agency receives tax increment, the county auditor or the county assessor shall provide access to:

(a) the county auditor's method and calculations used to make adjustments under Section 17C-1-408;

(b) the unequalized assessed valuation of an existing or proposed project area, or any parcel or parcels within an existing or proposed project area, if the equalized assessed valuation has not yet been determined for that year;

(c) the most recent equalized assessed valuation of an existing or proposed project area or any parcel or parcels within an existing or proposed project area; and

(d) the tax rate of each taxing entity adopted as of November 1 for the previous tax year.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-607. State Tax Commission and county assessor required to account for new growth.

The State Tax Commission and the assessor of each county in which an urban renewal, economic development, or community development project area is located shall count as new growth the assessed value of property with respect to which the taxing entity is receiving taxes or increased taxes for the first time.

Enacted by Chapter 359, 2006 General Session

17C-1-701. Approval of agency deactivation and dissolution -- Restrictions -- Notice -- Recording requirements -- Agency records -- Dissolution expenses.

(1) (a) Subject to Subsection (1)(b), the legislative body of the community that created an agency may, by ordinance, approve the deactivation and dissolution of the agency.

(b) An ordinance under Subsection (1)(a) approving the deactivation and dissolution of an agency may not be adopted unless the agency has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the community.

(2) (a) The community legislative body shall:

(i) within 10 days after adopting an ordinance under Subsection (1), file with the lieutenant governor a copy of a notice of an impending boundary action, as defined in Section 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

(ii) upon the lieutenant governor's issuance of a certificate of dissolution under Section 67-1a-6.5, submit to the recorder of the county in which the agency is located:

(A) the original notice of an impending boundary action;

(B) the original certificate of dissolution; and

(C) a certified copy of the ordinance approving the deactivation and dissolution of the agency.

(b) Upon the lieutenant governor's issuance of the certificate of dissolution under Section 67-1a-6.5, the agency is dissolved.

(c) Within 10 days after receiving the certificate of dissolution from the lieutenant governor under Section 67-1a-6.5, the community legislative body shall send a copy of the certificate of dissolution and the ordinance adopted under Subsection (1) to the State Board of Education, and each taxing entity.

(d) The community legislative body shall publish a notice of dissolution in a newspaper of general circulation in the county in which the dissolved agency is located.

(3) The books, documents, records, papers, and seal of each dissolved agency shall be deposited for safekeeping and reference with the recorder of the community that dissolved the agency.

(4) The agency shall pay all expenses of the deactivation and dissolution.

Amended by Chapter 350, 2009 General Session

17C-2-101. Resolution designating survey area -- Request to adopt resolution.

(1) An agency board may begin the process of adopting an urban renewal

project area plan by adopting a resolution that:

(a) designates an area located within the agency's boundaries as a survey area;

(b) contains a statement that the survey area requires study to determine whether:

(i) one or more urban renewal projects within the survey area are feasible; and

(ii) blight exists within the survey area; and

(c) contains a description or map of the boundaries of the survey area.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the urban renewal proposed for an area within the agency's boundaries.

(c) The board may, in its sole discretion, grant or deny a request under Subsection (2)(a).

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-102. Process for adopting urban renewal project area plan -- Prerequisites -- Restrictions.

(1) (a) In order to adopt an urban renewal project area plan, after adopting a resolution under Subsection 17C-2-101(1) the agency shall:

(i) unless a finding of blight is based on a finding made under Subsection 17C-2-303(1)(b) relating to an inactive industrial site or inactive airport site:

(A) cause a blight study to be conducted within the survey area as provided in Section 17C-2-301;

(B) provide notice of a blight hearing as required under Part 5, Urban Renewal Notice Requirements; and

(C) hold a blight hearing as provided in Section 17C-2-302;

(ii) after the blight hearing has been held or, if no blight hearing is required under Subsection (1)(a)(i), after adopting a resolution under Subsection 17C-2-101(1), hold a board meeting at which the board shall:

(A) consider:

(I) the issue of blight and the evidence and information relating to the existence or nonexistence of blight; and

(II) whether adoption of one or more urban renewal project area plans should be pursued; and

(B) by resolution:

(I) make a finding regarding the existence of blight in the proposed urban renewal project area;

(II) select one or more project areas comprising part or all of the survey area; and

(III) authorize the preparation of a draft project area plan for each project area;

(iii) prepare a draft of a project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(iv) make the draft project area plan available to the public at the agency's offices during normal business hours;

(v) provide notice of the plan hearing as provided in Sections 17C-2-502 and 17C-2-504;

(vi) hold a public hearing on the draft project area plan and, at that public hearing:

(A) allow public comment on:

(I) the draft project area plan; and

(II) whether the draft project area plan should be revised, approved, or rejected; and

(B) receive all written and hear all oral objections to the draft project area plan;

(vii) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the draft project area plan;

(viii) if applicable, hold the election required under Subsection 17C-2-105(3);

(ix) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(A) the oral and written objections to the draft project area plan and evidence and testimony for and against adoption of the draft project area plan; and

(B) whether to revise, approve, or reject the draft project area plan;

(x) approve the draft project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-2-106; and

(xi) submit the project area plan to the community legislative body for adoption.

(b) (i) If an agency makes a finding under Subsection (1)(a)(ii)(B) that blight exists in the proposed urban renewal project area, the agency may not adopt the project area plan until the taxing entity committee approves the finding of blight.

(ii) (A) A taxing entity committee may not disapprove an agency's finding of blight unless the committee demonstrates that the conditions the agency found to exist in the urban renewal project area that support the agency's finding of blight under Section 17C-2-303:

(I) do not exist; or

(II) do not constitute blight.

(B) (I) If the taxing entity committee questions or disputes the existence of some or all of the blight conditions that the agency found to exist in the urban renewal project area or that those conditions constitute blight, the taxing entity committee may hire a consultant, mutually agreed upon by the taxing entity committee and the agency, with the necessary expertise to assist the taxing entity committee to make a determination as to the existence of the questioned or disputed blight conditions.

(II) The agency shall pay the fees and expenses of each consultant hired under Subsection (1)(b)(ii)(B)(I).

(III) The findings of a consultant under this Subsection (1)(b)(ii)(B) shall be binding on the taxing entity committee and the agency.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a city or town, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) (a) Subject to Subsection (3)(b), an agency board may not approve a project area plan more than one year after adoption of a resolution making a finding of blight under Subsection (1)(a)(ii)(B).

(b) If a project area plan is submitted to an election under Subsection 17C-2-105(3), the time between the plan hearing and the date of the election does not count for purposes of calculating the year period under Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Sections 17C-2-502 and 17C-2-504.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area under the draft project area plan;

(ii) the record owner of the property consents to adding the real property to the proposed project area; and

(iii) the property is located within the survey area.

Amended by Chapter 125, 2008 General Session

17C-2-103. Urban renewal project area plan requirements.

(1) Each urban renewal project area plan and draft project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the urban renewal;

(c) state the standards that will guide the urban renewal;

(d) show how the purposes of this title will be attained by the urban renewal;

(e) be consistent with the general plan of the community in which the project area is located and show that the urban renewal will conform to the community's general plan;

(f) describe how the urban renewal will reduce or eliminate blight in the project area;

(g) describe any specific project or projects that are the object of the proposed urban renewal;

(h) identify how private developers, if any, will be selected to undertake the urban renewal and identify each private developer currently involved in the urban renewal process;

(i) state the reasons for the selection of the project area;

(j) describe the physical, social, and economic conditions existing in the project area;

(k) describe any tax incentives offered private entities for facilities located in the project area;

(l) include the analysis described in Subsection (2);

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Section 9-8-404 as though the agency were a state agency; and

(n) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection (1)(l) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of the urban renewal;

(ii) efforts the agency or developer has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the proposed development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking urban renewal and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the urban renewal, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) whether adoption of the project area plan is necessary and appropriate to reduce or eliminate blight.

Amended by Chapter 254, 2006 General Session
Amended by Chapter 292, 2006 General Session
Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-104. Existing and historic buildings and uses in an urban renewal project area.

If any of the existing buildings or uses in an urban renewal project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Section 9-8-404 as though the agency were a state agency.

Amended by Chapter 292, 2006 General Session
Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-105. Objections to urban renewal project area plan -- Owners' alternative project area plan -- Election if 40% of property owners object.

(1) At any time before the plan hearing, any person may file with the agency a written statement of objections to the draft urban renewal project area plan.

(2) If the record owners of property of a majority of the private real property included within the proposed urban renewal project area file a written petition before or at the plan hearing, proposing an alternative project area plan, the agency shall

consider that proposed plan in conjunction with the project area plan proposed by the agency.

(3) (a) If the record property owners of at least 40% of the private land area within the proposed urban renewal project area object in writing to the draft project area plan before or at the plan hearing and do not withdraw their objections, an agency may not approve the project area plan until approved by voters within the boundaries of the agency in which the proposed project area is located at an election as provided in Subsection (3)(b).

(b) (i) Except as provided in this section, each election required under Subsection (3)(a) shall comply with Title 20A, Election Code.

(ii) An election under Subsection (3)(a) may be held on the same day and with the same election officials as an election held by the community in which the proposed project area is located.

(iii) If a majority of those voting on the proposed project area plan vote in favor of it, the project area plan shall be considered approved and the agency shall confirm the approval by resolution.

(4) If the record property owners of 2/3 of the private land area within the proposed project area object in writing to the draft project area plan before or at the plan hearing and do not withdraw their objections, the project area plan may not be adopted and the agency may not reconsider the project area plan for three years.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-106. Board resolution approving urban renewal project area plan -- Requirements.

Each board resolution approving a draft urban renewal project area plan as the project area plan under Subsection 17C-2-102(1)(a) (x) shall contain:

(1) a legal description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference;

(4) a statement that the board previously made a finding of blight within the project area and the date of the board's finding of blight; and

(5) the board findings and determinations that:

(a) there is a need to effectuate a public purpose;

(b) there is a public benefit under the analysis described in Subsection 17C-2-103(2);

(c) it is economically sound and feasible to adopt and carry out the project area plan;

(d) the project area plan conforms to the community's general plan; and

(e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Amended by Chapter 364, 2007 General Session

17C-2-107. Urban renewal project area plan to be adopted by community

legislative body.

(1) An urban renewal project area plan approved by board resolution under Section 17C-2-106 may not take effect until:

(a) it has been adopted by ordinance of the legislative body of the community that created the agency; and

(b) notice under Section 17C-2-108 is provided.

(2) Each ordinance under Subsection (1) shall:

(a) be adopted by the community legislative body after the board's approval of a resolution under Section 17C-2-106; and

(b) designate the approved project area plan as the official urban renewal plan of the project area.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-108. Notice of urban renewal project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an urban renewal project area plan, or an amendment to a project area plan under Section 17C-2-110, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) posting a notice on the Utah Public Notice Website described in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person in interest may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, no person may contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the project area plan by the community's legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the adopted project area plan available to the general public at its offices during normal business hours.

Amended by Chapter 279, 2010 General Session

17C-2-109. Agency required to transmit and record documents after adoption of an urban renewal project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-2-107, an urban renewal project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and

(3) for a project area plan that provides for the payment of tax increment to the agency, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect its taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-110. Amending an urban renewal project area plan.

(1) An adopted urban renewal project area plan may be amended as provided in this section.

(2) If an agency proposes to amend an adopted urban renewal project area plan to enlarge the project area:

(a) subject to Subsection (2)(e), the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) for a pre-July 1, 1993 project area plan, the base year taxable value for the new area added to the project area shall be determined under Subsection 17C-1-102(6)(a)(i) using the effective date of the amended project area plan;

(c) for a post-June 30, 1993 project area plan:

(i) the base year taxable value for the new area added to the project area shall be determined under Subsection 17C-1-102(6)(a)(ii) using the date of the taxing entity committee's consent referred to in Subsection (2)(c)(ii); and

(ii) the agency shall obtain the consent of the taxing entity committee before the

agency may collect tax increment from the area added to the project area by the amendment;

(d) the agency shall make a finding regarding the existence of blight in the area proposed to be added to the project area by following the procedure set forth in Subsections 17C-2-102(1)(a)(i) and (ii); and

(e) the agency need not make a finding regarding the existence of blight in the project area as described in the original project area plan, if the agency made a finding of the existence of blight regarding that project area in connection with adoption of the original project area plan.

(3) If a proposed amendment does not propose to enlarge an urban renewal project area, an agency board may adopt a resolution approving an amendment to an adopted project area plan after:

(a) the agency gives notice, as provided in Section 17C-2-502, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the agency board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment, if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected;

(ii) to permit the agency to receive a greater percentage of tax increment or to receive tax increment for a longer period of time, or both, than allowed under the adopted project area plan; or

(iii) for an amendment to a project area plan that was adopted before April 1, 1983, to expand the area from which tax increment is collected to exceed 100 acres of private property; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to receive tax increment for a longer period of time, or both, than allowed under the adopted project area plan.

(4) (a) An adopted urban renewal project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the legal description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes a parcel of real property from a project area because the agency determines that:

(A) the parcel is no longer blighted; or

(B) inclusion of the parcel is no longer necessary or desirable to the project area.

(b) An amendment removing a parcel of real property from a project area under Subsection (4)(a)(ii) may not be made without the consent of the record property owner of the parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-2-108 and 17C-2-109 to the same extent as if the amendment were a project area plan.

Amended by Chapter 279, 2010 General Session

17C-2-201. Project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.

(1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 urban renewal project area plan with tax increment, the agency shall, subject to Section 17C-2-202, adopt a project area budget as provided in this part.

(b) An urban renewal project area budget adopted on or after March 30, 2009 shall specify:

(i) for a project area budget adopted on or after March 30, 2009:

(A) the number of tax years for which the agency will be allowed to receive tax increment from the project area; and

(B) the percentage of tax increment the agency is entitled to receive from the project area under the project area budget; and

(ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.

(2) To adopt an urban renewal project area budget, the agency shall:

(a) prepare a draft of a project area budget;

(b) make a copy of the draft project area budget available to the public at the agency's offices during normal business hours;

(c) provide notice of the budget hearing as required by Part 5, Urban Renewal Notice Requirements;

(d) hold a public hearing on the draft project area budget and, at that public hearing, allow public comment on:

(i) the draft project area budget; and

(ii) whether the draft project area budget should be revised, adopted, or rejected;

(e) (i) if required under Subsection 17C-2-204(1), obtain the approval of the taxing entity committee on the draft project area budget or a revised version of the draft project area budget; or

(ii) if applicable, comply with the requirements of Subsection 17C-2-204(2);

(f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(g) after the budget hearing, hold a board meeting in the same meeting as the

public hearing or in a subsequent meeting to:

(i) consider comments made and information presented at the public hearing relating to the draft project area budget; and

(ii) adopt by resolution the draft project area budget, with any revisions, as the project area budget.

(3) (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person in interest may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person, for any cause, may not contest:

(i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;

(ii) a payment to the agency under the project area budget; or

(iii) the agency's use of tax increment under the project area budget.

Amended by Chapter 80, 2013 General Session

17C-2-202. Combined incremental value -- Restriction against adopting an urban renewal project area budget -- Taxing entity committee may waive restriction.

(1) Except as provided in Subsection (2), an agency may not adopt an urban renewal project area budget if, at the time the urban renewal project area budget is being considered, the combined incremental value for the agency exceeds 10% of the total taxable value of property within the agency's boundaries in the year that the urban renewal project area budget is being considered.

(2) (a) A taxing entity committee may waive the restrictions imposed by Subsection (1).

(b) Subsection (1) does not apply to an urban renewal project area budget if the agency's finding of blight in the project area to which the budget relates is based on a finding under Subsection 17C-2-303(1)(b).

Amended by Chapter 364, 2007 General Session

17C-2-203. Part of tax increment funds in urban renewal project area budget to be used for housing -- Waiver of requirement.

(1) (a) Except as provided in Subsection (1)(b), each urban renewal project area budget adopted on or after May 1, 2000 that provides for more than $100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.

(b) The 20% requirement of Subsection (1)(a) may be waived in part or whole by the mutual consent of the loan fund board and the taxing entity committee if they determine that 20% of tax increment is more than is needed to address the community's need for income targeted housing.

(2) An urban renewal project area budget not required under Subsection (1)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to the

agency over the life of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-204. Consent of taxing entity committee required for urban renewal project area budget -- Exception.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each urban renewal project area budget under a post-June 30, 1993 project area plan before the agency may collect any tax increment from the urban renewal project area.

(b) For an urban renewal project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:

(i) need not obtain the consent of the taxing entity committee for the project area budget; and

(ii) may not collect any tax increment from all or part of the project area until after:

(A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and

(B) the agency board has approved and adopted the project area budget by a two-thirds vote.

(2) (a) Before a taxing entity committee may consent to an urban renewal project area budget adopted on or after May 1, 2000 that is required under Subsection 17C-2-203(1)(a) to allocate 20% of tax increment for housing, the agency shall:

(i) adopt a housing plan showing the uses for the housing funds; and

(ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.

(b) If an agency amends a housing plan prepared under Subsection (2)(a), the agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-205. Filing a copy of the urban renewal project area budget.

Each agency adopting an urban renewal project area budget shall:

(1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and

(2) if the project area budget allocates tax increment for housing under Section 17C-1-412, file a copy of the project area budget with the loan fund board.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-206. Amending an urban renewal project area budget.

(1) An agency may by resolution amend an urban renewal project area budget as provided in this section.

(2) To amend an adopted urban renewal project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Subsections 17C-2-201(2)(c) and (d), except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted project area budget without the proposed amendment.

(5) (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.

(b) A person who fails to contest a budget amendment under Subsection (5)(a):

(i) forfeits any claim against an agency's adoption of the amendment; and

(ii) may not contest:

(A) a payment to the agency under the budget amendment; or

(B) an agency's use of a tax increment under the budget amendment.

Amended by Chapter 43, 2011 General Session

17C-2-207. Extending collection of tax increment in an urban renewal project area budget.

(1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) An agency's collection of tax increment under an adopted urban renewal project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section 17C-2-206; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly

provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a draft project area budget; and

(ii) provide notice of the hearing:

(A) as required by Part 5, Urban Renewal Notice Requirements; and

(B) including the proposed period of extension of the project area budget; and

(c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).

(5) (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person who fails to contest a budget extension under Subsection (5)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a payment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

Enacted by Chapter 43, 2011 General Session

17C-2-301. Blight study -- Requirements -- Deadline.

(1) Each blight study required under Subsection 17C-2-102(1)(a)(i)(A) shall:

(a) undertake a parcel by parcel survey of the survey area;

(b) provide data so the board and taxing entity committee may determine:

(i) whether the conditions described in Subsection 17C-2-303(1):

(A) exist in part or all of the survey area; and

(B) qualify an area within the survey area as a project area; and

(ii) whether the survey area contains all or part of a superfund site, an inactive industrial site, or inactive airport site;

(c) include a written report setting forth:

(i) the conclusions reached;

(ii) any recommended area within the survey area qualifying as a project area; and

(iii) any other information requested by the agency to determine whether an urban renewal project area is feasible; and

(d) be completed within one year after the adoption of the survey area resolution.

(2) (a) If a blight study is not completed within one year after the adoption of the resolution under Subsection 17C-2-101(1) designating a survey area, the agency may

not approve an urban renewal project area plan based on that blight study unless it first adopts a new resolution under Subsection 17C-2-101(1).

(b) A new resolution under Subsection (2)(a) shall in all respects be considered to be a resolution under Subsection 17C-2-101(1) adopted for the first time, except that any actions taken toward completing a blight study under the resolution that the new resolution replaces shall be considered to have been taken under the new resolution.

Amended by Chapter 125, 2008 General Session

17C-2-302. Blight hearing -- Owners may review evidence of blight.

(1) In each hearing required under Subsection 17C-2-102(1)(a)(i)(C), the agency shall:

(a) permit all evidence of the existence or nonexistence of blight within the proposed urban renewal project area to be presented; and

(b) permit each record owner of property located within the proposed urban renewal project area or the record property owner's representative the opportunity to:

(i) examine and cross-examine witnesses providing evidence of the existence or nonexistence of blight; and

(ii) present evidence and testimony, including expert testimony, concerning the existence or nonexistence of blight.

(2) The agency shall allow record owners of property located within a proposed urban renewal project area the opportunity, for at least 30 days before the hearing, to review the evidence of blight compiled by the agency or by the person or firm conducting the blight study for the agency, including any expert report.

Amended by Chapter 364, 2007 General Session

17C-2-303. Conditions on board determination of blight -- Conditions of blight caused by the developer.

(1) An agency board may not make a finding of blight in a resolution under Subsection 17C-2-102(1)(a)(ii)(B) unless the board finds that:

(a) (i) the proposed project area consists predominantly of nongreenfield parcels;

(ii) the proposed project area is currently zoned for urban purposes and generally served by utilities;

(iii) at least 50% of the parcels within the proposed project area contain nonagricultural or nonaccessory buildings or improvements used or intended for residential, commercial, industrial, or other urban purposes, or any combination of those uses;

(iv) the present condition or use of the proposed project area substantially impairs the sound growth of the municipality, retards the provision of housing accommodations, or constitutes an economic liability or is detrimental to the public health, safety, or welfare, as shown by the existence within the proposed project area of at least four of the following factors:

(A) one of the following, although sometimes interspersed with well maintained buildings and infrastructure:

(I) substantial physical dilapidation, deterioration, or defective construction of buildings or infrastructure; or

(II) significant noncompliance with current building code, safety code, health code, or fire code requirements or local ordinances;

(B) unsanitary or unsafe conditions in the proposed project area that threaten the health, safety, or welfare of the community;

(C) environmental hazards, as defined in state or federal law, that require remediation as a condition for current or future use and development;

(D) excessive vacancy, abandoned buildings, or vacant lots within an area zoned for urban use and served by utilities;

(E) abandoned or outdated facilities that pose a threat to public health, safety, or welfare;

(F) criminal activity in the project area, higher than that of comparable nonblighted areas in the municipality or county; and

(G) defective or unusual conditions of title rendering the title nonmarketable; and

(v) (A) at least 50% of the privately-owned parcels within the proposed project area are affected by at least one of the factors, but not necessarily the same factor, listed in Subsection (1)(a)(iv); and

(B) the affected parcels comprise at least 66% of the privately-owned acreage of the proposed project area; or

(b) the proposed project area includes some or all of a superfund site, inactive industrial site, or inactive airport site.

(2) No single parcel comprising 10% or more of the acreage of the proposed project area may be counted as satisfying Subsection (1)(a)(iii) or (iv) unless at least 50% of the area of that parcel is occupied by buildings or improvements.

(3) (a) For purposes of Subsection (1), if a developer involved in the urban renewal project has caused a condition listed in Subsection (1)(a)(iv) within the proposed project area, that condition may not be used in the determination of blight.

(b) Subsection (3)(a) does not apply to a condition that was caused by an owner or tenant who becomes a developer.

Amended by Chapter 43, 2011 General Session

17C-2-304. Challenging a finding of blight -- Time limit -- De novo review.

(1) If the board makes a finding of blight under Subsection 17C-2-102(1)(a)(ii)(B) and that finding is approved by resolution adopted by the taxing entity committee, a record owner of property located within the proposed urban renewal project area may challenge the finding by filing an action with the district court for the county in which the property is located.

(2) Each challenge under Subsection (1) shall be filed within 30 days after the taxing entity committee approves the board's finding of blight.

(3) In each action under this section, the district court shall review the finding of blight under the standards of review provided in Subsection 10-9a-801(3).

Amended by Chapter 364, 2007 General Session

17C-2-401. Combining hearings.

A board may combine any combination of a blight hearing, a plan hearing, and a budget hearing.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-402. Continuing a hearing.

Subject to Section 17C-2-403, the board may continue from time to time a:

(1) blight hearing;

(2) plan hearing;

(3) budget hearing; or

(4) combined hearing under Section 17C-2-401.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-403. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section 17C-2-402 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) that it is being continued to a later time and causing a notice of the continued hearing to be:

(a) (i) published once in a newspaper of general circulation within the agency boundaries at least seven days before the hearing is scheduled to resume; or

(ii) if there is no newspaper of general circulation, posted in at least three conspicuous places within the boundaries of the agency in which the project area or proposed project area is located; and

(b) published on the Utah Public Notice Website created in Section 63F-1-701, at least seven days before the hearing is schedule to resume.

Amended by Chapter 90, 2010 General Session

17C-2-501. Agency to provide notice of hearings.

(1) Each agency shall provide notice, as provided in this part, of each:

(a) blight hearing;

(b) plan hearing; and

(c) budget hearing.

(2) The notice required under Subsection (1) for any of the hearings listed in that subsection may be combined with the notice required for any of the other hearings if the hearings are combined under Section 17C-2-401.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-502. Requirements for notice provided by agency.

(1) The notice required by Section 17C-2-501 shall be given by:

(a) (i) publishing one notice, excluding the map referred to in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or

proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice at least 14 days before the day of the hearing in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section 63F-1-701; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing:

(i) mailing notice to each record owner of property located within the project area or proposed project area; and

(ii) mailing notice to:

(A) the State Tax Commission;

(B) the assessor and auditor of the county in which the project area or proposed project area is located; and

(C) (I) each member of the taxing entity committee; or

(II) if a taxing entity committee has not yet been formed, the State Board of Education and the legislative body or governing board of each taxing entity.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-2-501:

(a) (i) a specific description of the boundaries of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the description be sent at no cost to the person by mail or facsimile transmission; and

(B) if the agency has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the description;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsection (1)(b)(ii):

(a) a statement that property tax revenues resulting from an increase in valuation of property within the project area or proposed project area will be paid to the agency for urban renewal purposes rather than to the taxing entity to which the tax revenues would otherwise have been paid if:

(i) the taxing entity committee consents to the project area budget; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose served by the project and any future tax benefits expected to result from the project.

Amended by Chapter 279, 2010 General Session

17C-2-503. Additional requirements for notice of a blight hearing.

Each notice under Section 17C-2-502 for a blight hearing shall include:

(1) a statement that:

(a) an urban renewal project area is being proposed;

(b) the proposed urban renewal project area may be declared to have blight;

(c) the record owner of property within the proposed project area has the right to present evidence at the blight hearing contesting the existence of blight;

(d) except for a hearing continued under Section 17C-2-402, the agency will notify the record property owners referred to in Subsection 17C-2-502(1)(b)(i) of each additional public hearing held by the agency concerning the urban renewal project prior to the adoption of the urban renewal project area plan; and

(e) persons contesting the existence of blight in the proposed urban renewal project area may appear before the agency board and show cause why the proposed urban renewal project area should not be designated as an urban renewal project area; and

(2) if the agency anticipates acquiring property in an urban renewal project area by eminent domain, a clear and plain statement that:

(a) the project area plan may require the agency to use eminent domain; and

(b) the proposed use of eminent domain will be discussed at the blight hearing.

Amended by Chapter 379, 2007 General Session

17C-2-504. Additional requirements for notice of a plan hearing.

Each notice under Section 17C-2-502 of a plan hearing shall include:

(1) a statement that any person objecting to the draft project area plan or contesting the regularity of any of the proceedings to adopt it may appear before the agency board at the hearing to show cause why the draft project area plan should not be adopted; and

(2) a statement that the proposed project area plan is available for inspection at the agency offices.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-505. Additional requirements for notice of a budget hearing.

Each notice under Section 17C-2-502 of a budget hearing shall contain:

(1) the following statement:

"The (name of agency) has requested $_____ in property tax revenues that will be generated by development within the (name of project area) to fund a portion of

project costs within the (name of project area). These property tax revenues will be used for the following: (list major budget categories and amounts). These property taxes will be taxes levied by the following governmental entities, and, assuming current tax rates, the taxes paid to the agency for this project area from each taxing entity will be as follows: (list each taxing entity levying taxes and the amount of total taxes that would be paid from each taxing entity). All of the property taxes to be paid to the agency for the development in the project area are taxes that will be generated only if the project area is developed.

All concerned citizens are invited to attend the project area budget hearing scheduled for (date, time, and place of hearing). A copy of the (name of project area) project area budget is available at the offices of (name of agency and office address).";

and

(2) other information that the agency considers appropriate.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-2-601. Use of eminent domain in an urban renewal project area -- Conditions -- Acquiring single family owner occupied residential property or commercial property -- Acquiring property already devoted to a public use -- Relocation assistance requirement.

(1) Subject to Section 17C-2-602, an agency may use eminent domain to acquire property:

(a) within an urban renewal project area if:

(i) the agency board makes a finding of blight under Part 3, Blight Determination in Urban Renewal Project Areas;

(ii) the urban renewal project area plan provides for the use of eminent domain; and

(iii) the agency commences the acquisition of the property within five years after the effective date of the urban renewal project area plan; or

(b) within a project area established after December 31, 2001 but before April 30, 2007 if:

(i) the agency board made a finding of blight with respect to the project area as provided under the law in effect at the time of the finding;

(ii) the project area plan provides for the use of eminent domain; and

(iii) the agency commences the acquisition of the property before January 1, 2010.

(2) (a) As used in this Subsection (2):

(i) "Commercial property" means a property used, in whole or in part, by the owner or possessor of the property for a commercial, industrial, retail, or other business purpose, regardless of the identity of the property owner.

(ii) "Owner occupied property" means private real property:

(A) whose use is single-family residential or commercial; and

(B) that is occupied by the owner of the property.

(iii) "Relevant area" means:

(A) except as provided in Subsection (2)(a)(iii)(B), the project area; or

(B) the area included within a phase of a project under a project area plan if the

phase and the area included within the phase are described in the project area plan.

(b) For purposes of each provision of this Subsection (2) relating to the submission of a petition by the owners of property, a parcel of real property is included in the calculation of the applicable percentage if the petition is signed by:

(i) except as provided in Subsection (2)(b)(ii), owners representing a majority ownership interest in that parcel; or

(ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel.

(c) An agency may not acquire by eminent domain single-family residential owner occupied property unless:

(i) the owner consents; or

(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 80% of the owner occupied property within the relevant area representing at least 70% of the value of owner occupied property within the relevant area; and

(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.

(d) An agency may not acquire commercial property by eminent domain unless:

(i) the owner consents; or

(ii) (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 75% of the commercial property within the relevant area representing at least 60% of the value of commercial property within the relevant area; and

(B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.

(3) An agency may not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless:

(a) the owner consents; or

(b) (i) the building requires structural alteration, improvement, modernization, or rehabilitation;

(ii) the site or lot on which the building is situated requires modification in size, shape, or use; or

(iii) (A) it is necessary to impose upon the property any of the standards, restrictions, and controls of the project area plan; and

(B) the owner fails or refuses to agree to participate in the project area plan.

(4) (a) Subject to Subsection (4)(b), an agency may acquire by eminent domain property that is already devoted to a public use and located in:

(i) an urban renewal project area; or

(ii) a project area described in Subsection (1)(b).

(b) An agency may not acquire property of a public entity under Subsection (4)(a) without the public entity's consent.

(5) Each agency that acquires property by eminent domain shall comply with Title 57, Chapter 12, Utah Relocation Assistance Act.

Amended by Chapter 235, 2012 General Session

17C-2-602. Prerequisites to the acquisition of property by eminent domain -- Civil action authorized -- Record of good faith negotiations to be retained.

(1) Before an agency may acquire property by eminent domain, the agency shall:

(a) negotiate in good faith with the affected record property owner;

(b) provide to each affected record property owner a written declaration that includes:

(i) an explanation of the eminent domain process and the reasons for using it, including:

(A) the need for the agency to obtain an independent appraisal that indicates the fair market value of the property and how the fair market value was determined;

(B) a statement that the agency may adopt a resolution authorizing the agency to make an offer to the record property owner to purchase the property for the fair market value amount determined by the appraiser and that, if the offer is rejected, the agency has the right to acquire the property through an eminent domain proceeding; and

(C) a statement that the agency will prepare an offer that will include the price the agency is offering for the property, an explanation of how the agency determined the price being offered, the legal description of the property, conditions of the offer, and the time at which the offer will expire;

(ii) an explanation of the record property owner's relocation rights under Title 57, Chapter 12, Utah Relocation Assistance Act, and how to receive relocation assistance; and

(iii) a statement that the owner has the right to receive just compensation and an explanation of how to obtain it; and

(c) provide to the affected record property owner or the owner's designated representative a notice that is printed in a type size of at least ten-point type that contains:

(i) a description of the property to be acquired;

(ii) the name of the agency acquiring the property and the agency's contact person and telephone number; and

(iii) a copy of Title 57, Chapter 12, Utah Relocation Assistance Act.

(2) A person may bring a civil action against an agency for a violation of Subsection (1)(b) that results in damage to that person.

(3) Each agency shall keep a record and evidence of the good faith negotiations required under Subsection (1)(a) and retain the record and evidence as provided in:

(a) Title 63G, Chapter 2, Government Records Access and Management Act; or

(b) an ordinance or policy that the agency had adopted under Section 63G-2-701.

(4) A record property owner whose property is being taken by an agency through the exercise of eminent domain may elect to receive for the real property being taken:

(a) fair market value; or

(b) replacement property under Section 57-12-7.

Amended by Chapter 382, 2008 General Session

17C-2-603. Court award for court costs and attorney fees, relocation expenses, and damage to fixtures or personal property.

If a property owner brings an action in district court contesting an agency's exercise of eminent domain against that owner's property, the court may:

(1) award court costs and a reasonable attorney fee, as determined by the court, to the owner, if the amount of the court or jury award for the property exceeds the amount offered by the agency;

(2) award a reasonable sum, as determined by the court or jury, as compensation for any costs and expenses of relocating an owner who occupied the acquired property, a party conducting a business on the acquired property, or a person displaced from the property, as permitted by Title 57, Chapter 12, Utah Relocation Assistance Act; and

(3) award an amount, as determined by the court or jury, to compensate for any fixtures or personal property that is:

(a) owned by the owner of the acquired property or by a person conducting a business on the acquired property; and

(b) damaged as a result of the acquisition or relocation.

Enacted by Chapter 379, 2007 General Session

17C-2-701. Railroad crossings within urban renewal project area.

(1) Notwithstanding Section 54-4-15 or other provision of law, and except as provided in Subsection (2), the Department of Transportation created in Section 72-1-201 may not prohibit or close, temporarily or permanently, a public road or highway crossing by a railroad or street railroad that is located within the boundaries of an urban renewal project area that includes some or all of an inactive industrial site.

(2) The Department of Transportation may prohibit or close a crossing described in Subsection (1) if the department obtains the advance written consent of the agency that created the urban renewal project area where the crossing is located.

Enacted by Chapter 43, 2011 General Session

17C-3-101. Resolution authorizing the preparation of a draft economic development project area plan -- Request to adopt resolution.

(1) An agency board may begin the process of adopting an economic development project area plan by adopting a resolution that authorizes the preparation of a draft project area plan.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the economic development proposed for an area within the agency's boundaries.

(c) The board may, in its sole discretion, grant or deny a request under Subsection (2)(a).

Enacted by Chapter 359, 2006 General Session

17C-3-102. Process for adopting an economic development project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt an economic development project area plan, after adopting a resolution under Subsection 17C-3-101(1) the agency shall:

(a) prepare a draft of an economic development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) make the draft project area plan available to the public at the agency's offices during normal business hours;

(c) provide notice of the plan hearing as provided in Part 4, Economic Development Notice Requirements;

(d) hold a public hearing on the draft project area plan and, at that public hearing:

(i) allow public comment on:

(A) the draft project area plan; and

(B) whether the draft project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the draft project area plan;

(e) before holding the plan hearing, provide an opportunity for the State Board of Education and each taxing entity that levies a tax on property within the proposed project area to consult with the agency regarding the draft project area plan;

(f) after holding the plan hearing, at the same meeting or at a subsequent meeting consider:

(i) the oral and written objections to the draft project area plan and evidence and testimony for or against adoption of the draft project area plan; and

(ii) whether to revise, approve, or reject the draft project area plan;

(g) approve the draft project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-3-105; and

(h) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a city or town, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) An agency board may not approve a project area plan more than one year after the date of the plan hearing.

(4) (a) Except as provided in Subsection (4)(b), a draft project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Part 4, Economic Development Notice Requirements.

(b) The notice and hearing requirements under Subsection (4)(a) do not apply to a draft project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed

project area under the draft project area plan; and

(ii) the record owner of the property consents to adding the real property to the proposed project area.

Enacted by Chapter 359, 2006 General Session

17C-3-103. Economic development project area plan requirements.

(1) Each economic development project area plan and draft project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the economic development;

(c) state the standards that will guide the economic development;

(d) show how the purposes of this title will be attained by the economic development;

(e) be consistent with the general plan of the community in which the project area is located and show that the economic development will conform to the community's general plan;

(f) describe how the economic development will create additional jobs;

(g) describe any specific project or projects that are the object of the proposed economic development;

(h) identify how private developers, if any, will be selected to undertake the economic development and identify each private developer currently involved in the economic development process;

(i) state the reasons for the selection of the project area;

(j) describe the physical, social, and economic conditions existing in the project area;

(k) describe any tax incentives offered private entities for facilities located in the project area;

(l) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is beneficial under a benefit analysis;

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency; and

(n) include other information that the agency determines to be necessary or advisable.

(2) Each analysis under Subsection (1)(l) shall consider:

(a) the benefit of any financial assistance or other public subsidy proposed to be provided by the agency, including:

(i) an evaluation of the reasonableness of the costs of economic development;

(ii) efforts the agency or developer has made or will make to maximize private investment;

(iii) the rationale for use of tax increment, including an analysis of whether the

proposed development might reasonably be expected to occur in the foreseeable future solely through private investment; and

(iv) an estimate of the total amount of tax increment that will be expended in undertaking economic development and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the economic development, including:

(i) the beneficial influences upon the tax base of the community;

(ii) the associated business and economic activity likely to be stimulated; and

(iii) the number of jobs or employment anticipated to be generated or preserved.

Enacted by Chapter 359, 2006 General Session

17C-3-104. Existing and historic buildings and uses in an economic development project area.

If any of the existing buildings or uses in an economic development project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, the agency shall comply with Subsection 9-8-404(1) as though the agency were a state agency.

Enacted by Chapter 359, 2006 General Session

17C-3-105. Board resolution approving an economic development project area plan -- Requirements.

Each board resolution approving a draft economic development project area plan as the project area plan under Subsection 17C-3-102(1)(g) shall contain:

(1) a legal description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference; and

(4) the board findings and determinations that:

(a) there is a need to effectuate a public purpose;

(b) there is a public benefit under the analysis described in Subsection 17C-3-103(2);

(c) it is economically sound and feasible to adopt and carry out the project area plan;

(d) the project area plan conforms to the community's general plan; and

(e) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

Enacted by Chapter 359, 2006 General Session

17C-3-106. Economic development project area plan to be adopted by community legislative body.

(1) An economic development project area plan approved by board resolution under Subsection 17C-3-102(1)(g) may not take effect until it has been adopted by

ordinance of the legislative body of the community that created the agency and notice under Section 17C-3-107 is provided.

(2) Each ordinance under Subsection (1) shall:

(a) be adopted by the community legislative body after the board's approval of a resolution under Subsection 17C-3-102(1)(g); and

(b) designate the approved project area plan as the official economic development plan of the project area.

Enacted by Chapter 359, 2006 General Session

17C-3-107. Notice of economic development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of an economic development project area plan, or an amendment to the project area plan under Section 17C-3-109, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) publishing or causing to be published a notice:

(A) in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) on the Utah Public Notice Website described in Section 63F-1-701.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the project area plan under Subsection (2), any person in interest may contest the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, no person may contest the project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the economic development project area plan by the community's legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the adopted economic development project area plan available to the general public at its offices during normal business hours.

Amended by Chapter 279, 2010 General Session

17C-3-108. Agency required to transmit and record documents after adoption of economic development project area plan.

Within 30 days after the community legislative body adopts, under Section

17C-3-106, an economic development project area plan, the agency shall:

(1) record with the recorder of the county in which the economic development project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and

(3) for a project area plan that provides for the payment of tax increment to the agency, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect its taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Enacted by Chapter 359, 2006 General Session

17C-3-109. Amending an economic development project area plan.

(1) An adopted economic development project area plan may be amended as provided in this section.

(2) If an agency proposes to amend an adopted economic development project area plan to enlarge the project area:

(a) the requirements under this part that apply to adopting a project area plan apply equally to the proposed amendment as if it were a proposed project area plan;

(b) the base year taxable value for the new area added to the project area shall be determined under Subsection 17C-1-102(6)(a)(ii) using the date of the taxing entity committee's consent referred to in Subsection (2)(c); and

(c) the agency shall obtain the consent of the taxing entity committee before the agency may collect tax increment from the area added to the project area by the amendment.

(3) If a proposed amendment does not propose to enlarge an economic development project area, an agency board may adopt a resolution approving an amendment to an adopted project area plan after:

(a) the agency gives notice, as provided in Section 17C-3-402, of the proposed amendment and of the public hearing required by Subsection (3)(b);

(b) the agency board holds a public hearing on the proposed amendment that meets the requirements of a plan hearing;

(c) the agency obtains the taxing entity committee's consent to the amendment,

if the amendment proposes:

(i) to enlarge the area within the project area from which tax increment is collected; or

(ii) to permit the agency to receive a greater percentage of tax increment or to receive tax increment for a longer period of time than allowed under the adopted project area plan; and

(d) the agency obtains the consent of the legislative body or governing board of each taxing entity affected, if the amendment proposes to permit the agency to receive, from less than all taxing entities, a greater percentage of tax increment or to receive tax increment for a longer period of time, or both, than allowed under the adopted project area plan.

(4) (a) An adopted project area plan may be amended without complying with the notice and public hearing requirements of Subsections (2)(a) and (3)(a) and (b) and without obtaining taxing entity committee approval under Subsection (3)(c) if the amendment:

(i) makes a minor adjustment in the legal description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (4)(b), removes a parcel of real property from a project area because the agency determines that inclusion of the parcel is no longer necessary or desirable to the project area.

(b) An amendment removing a parcel of real property from a project area under Subsection (4)(a) may not be made without the consent of the record property owner of the parcel being removed.

(5) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-3-107 and 17C-3-108 to the same extent as if the amendment were a project area plan.

Amended by Chapter 279, 2010 General Session

17C-3-201. Economic development project area budget -- Requirements for adopting -- Contesting the budget or procedure -- Time limit.

(1) (a) If an agency anticipates funding all or a portion of a post-June 30, 1993 economic development project area plan with tax increment, the agency shall, subject to Section 17C-3-202, adopt a project area budget as provided in this part.

(b) An economic development project area budget adopted on or after March 30, 2009 shall specify:

(i) for a project area budget adopted on or after March 30, 2009:

(A) the number of tax years for which the agency will be allowed to receive tax increment from the project area; and

(B) the percentage of tax increment the agency is entitled to receive from the project area under the project area budget; and

(ii) for a project area budget adopted on or after March 30, 2013, unless approval is obtained under Subsection 17C-1-402(4)(b)(vi)(C), the maximum cumulative dollar amount of tax increment that the agency may receive from the project area under the project area budget.

(2) To adopt an economic development project area budget, the agency shall:

(a) prepare a draft of an economic development project area budget;

(b) make a copy of the draft project area budget available to the public at the agency's offices during normal business hours;

(c) provide notice of the budget hearing as required by Part 4, Economic Development Notice Requirements;

(d) hold a public hearing on the draft project area budget and, at that public hearing, allow public comment on:

(i) the draft project area budget; and

(ii) whether the draft project area budget should be revised, adopted, or rejected;

(e) (i) if required under Subsection 17C-3-203(1), obtain the approval of the taxing entity committee on the draft project area budget or a revised version of the draft project area budget; or

(ii) if applicable, comply with the requirements of Subsection 17C-3-203(2);

(f) if approval of the taxing entity committee is required under Subsection (2)(e)(i), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(g) after the budget hearing, hold a board meeting in the same meeting as the public hearing or in a subsequent meeting to:

(i) consider comments made and information presented at the public hearing relating to the draft project area budget; and

(ii) adopt by resolution the draft project area budget, with any revisions, as the project area budget.

(3) (a) For a period of 30 days after the agency's adoption of the project area budget under Subsection (2)(g), any person in interest may contest the project area budget or the procedure used to adopt the project area budget if the budget or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, a person, for any cause, may not contest:

(i) the project area budget or procedure used by either the taxing entity committee or the agency to approve and adopt the project area budget;

(ii) a payment to the agency under the project area budget; or

(iii) the agency's use of tax increment under the project area budget.

Amended by Chapter 80, 2013 General Session

17C-3-202. Part of tax increment funds in an economic development project area budget to be used for housing -- Waiver of requirement.

(1) This section applies only to an economic development project area budget adopted on or after May 1, 2000, but before March 30, 2009.

(2) (a) Except as provided in Subsection (2)(b), each economic development project area budget adopted on or after May 1, 2000 but before March 30, 2009 that provides for more than $100,000 of annual tax increment to be paid to the agency shall allocate at least 20% of the tax increment for housing as provided in Section 17C-1-412.

(b) The 20% requirement of Subsection (2)(a) may be waived:

(i) in part or whole by the mutual consent of the loan fund board and the taxing entity committee if they determine that 20% of tax increment is more than is needed to address the community's need for income targeted housing; or

(ii) in fifth and sixth class counties, by the taxing entity committee for economic development project area budgets adopted on or after May 1, 2002 but before March 30, 2009, if the economic development project area consists of an area without housing units.

(3) An economic development project area budget not required under Subsection (2)(a) to allocate tax increment for housing may allocate 20% of tax increment payable to the agency over the life of the project area for housing as provided in Section 17C-1-412 if the project area budget is under a project area plan that is adopted on or after July 1, 1998.

Amended by Chapter 387, 2009 General Session

17C-3-203. Consent of taxing entity committee required for economic development project area budget -- Exception.

(1) (a) Except as provided in Subsection (1)(b) and subject to Subsection (2), each agency shall obtain the consent of the taxing entity committee for each economic development project area budget under a post-June 30, 1993 economic development project area plan before the agency may collect any tax increment from the project area.

(b) For an economic development project area budget adopted from July 1, 1998 through May 1, 2000 that allocates 20% or more of the tax increment for housing as provided in Section 17C-1-412, an agency:

(i) need not obtain the consent of the taxing entity committee for the project area budget; and

(ii) may not collect any tax increment from all or part of the project area until after:

(A) the loan fund board has certified the project area budget as complying with the requirements of Section 17C-1-412; and

(B) the agency board has approved and adopted the project area budget by a two-thirds vote.

(2) (a) Before a taxing entity committee may consent to an economic development project area budget adopted on or after May 1, 2000 that allocates 20% of tax increment for housing under Subsection 17C-3-202(2)(a) or (3), the agency shall:

(i) adopt a housing plan showing the uses for the housing funds; and

(ii) provide a copy of the housing plan to the taxing entity committee and the loan fund board.

(b) If an agency amends a housing plan prepared under Subsection (2)(a), the

agency shall provide a copy of the amendment to the taxing entity committee and the loan fund board.

Amended by Chapter 387, 2009 General Session

17C-3-204. Filing a copy of the economic development project area budget.

Each agency adopting an economic development project area budget shall:

(1) within 30 days after adopting the project area budget, file a copy of the project area budget with the auditor of the county in which the project area is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity affected by the agency's collection of tax increment under the project area budget; and

(2) if the project area budget allocates tax increment for housing under Section 17C-1-412, file a copy of the project area budget with the loan fund board.

Enacted by Chapter 359, 2006 General Session

17C-3-205. Amending an economic development project area budget.

(1) An agency may by resolution amend an economic development project area budget as provided in this section.

(2) To amend an adopted economic development project area budget, the agency shall:

(a) advertise and hold one public hearing on the proposed amendment as provided in Subsection (3);

(b) if approval of the taxing entity committee was required for adoption of the original project area budget, obtain the approval of the taxing entity committee to the same extent that the agency was required to obtain the consent of the taxing entity committee for the project area budget as originally adopted;

(c) if approval of the taxing entity committee is required under Subsection (2)(b), obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the taxing entity committee followed the appropriate procedures to approve the project area budget; and

(d) adopt a resolution amending the project area budget.

(3) The public hearing required under Subsection (2)(a) shall be conducted according to the procedures and requirements of Section 17C-3-201, except that if the amended project area budget proposes that the agency be paid a greater proportion of tax increment from a project area than was to be paid under the previous project area budget, the notice shall state the percentage paid under the previous project area budget and the percentage proposed under the amended project area budget.

(4) If a proposed amendment is not adopted, the agency shall continue to operate under the previously adopted economic development project area budget without the proposed amendment.

(5) (a) A person may contest the agency's adoption of a budget amendment within 30 days after the day on which the agency adopts the amendment.

(b) A person who fails to contest a budget amendment under Subsection (5)(a):

(i) forfeits any claim against an agency's adoption of the amendment; and
(ii) may not contest:
(A) a payment to the agency under the budget amendment; or
(B) an agency's use of a tax increment under a budget amendment.

Amended by Chapter 43, 2011 General Session

17C-3-206. Extending collection of tax increment under an economic development project area budget.

(1) An amendment or extension approved by a taxing entity or taxing entity committee before May 10, 2011, is not subject to this section.

(2) (a) An agency's collection of tax increment under an adopted economic development project area budget may be extended by:

(i) following the project area budget amendment procedures outlined in Section 17C-3-205; or

(ii) following the procedures outlined in this section.

(b) The base taxable value for an urban renewal project area budget may not be altered as a result of an extension under this section unless otherwise expressly provided for in an interlocal agreement adopted in accordance with Subsection (3)(a).

(3) To extend under this section the agency's collection of tax increment from a taxing entity under a previously approved project area budget, the agency shall:

(a) obtain the approval of the taxing entity through an interlocal agreement;

(b) (i) hold a public hearing on the proposed extension in accordance with Subsection 17C-2-201(2)(d) in the same manner as required for a draft project area budget; and

(ii) provide notice of the hearing:

(A) as required by Part 4, Economic Development Notice Requirements; and

(B) including the proposed period of extension of the project area budget; and

(c) after obtaining the approval of the taxing entity in accordance with Subsection (3)(a), at or after the public hearing, adopt a resolution approving the extension.

(4) After the expiration of a project area budget, an agency may continue to receive tax increment from those taxing entities that have agreed to an extension through an interlocal agreement in accordance with Subsection (3)(a).

(5) (a) A person may contest the agency's adoption of a budget extension within 30 days after the day on which the agency adopts the resolution providing for the extension.

(b) A person who fails to contest a budget extension under Subsection (5)(a):

(i) shall forfeit any claim against the agency's adoption of the extension; and

(ii) may not contest:

(A) a payment to the agency under the budget, as extended; or

(B) an agency's use of tax increment under the budget, as extended.

Enacted by Chapter 43, 2011 General Session

17C-3-301. Combining hearings.

A board may combine a plan hearing with a budget hearing.

Enacted by Chapter 359, 2006 General Session

17C-3-302. Continuing a hearing.

Subject to Section 17C-3-303, the board may continue from time to time a:

(1) plan hearing;

(2) budget hearing; or

(3) combined plan hearing and budget hearing under Section 17C-3-301.

Enacted by Chapter 359, 2006 General Session

17C-3-303. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section 17C-3-302 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) that it is being continued to a later time and causing a notice of the continued hearing to be:

(a) (i) published once in a newspaper of general circulation within the agency boundaries at least seven days before the hearing is scheduled to resume; or

(ii) if there is no newspaper of general circulation, posted in at least three conspicuous places within the boundaries of the agency in which the project area or proposed project area is located; and

(b) published, in accordance with Section 45-1-101, at least seven days before the hearing is schedule to resume.

Amended by Chapter 388, 2009 General Session

17C-3-401. Agency to provide notice of hearings.

(1) Each agency shall provide notice, as provided in this part, of each:

(a) plan hearing; and

(b) budget hearing.

(2) The notice required under Subsection (1) for a plan hearing may be combined with the notice required for a budget hearing if those two hearings are combined under Section 17C-3-301.

Enacted by Chapter 359, 2006 General Session

17C-3-402. Requirements for notice provided by agency.

(1) The notice required by Section 17C-3-401 shall be given by:

(a) (i) publishing one notice, excluding the map described in Subsection (3)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section 63F-1-701; and

(B) the public website of a community located within the boundaries of the project area; and

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the project area or proposed project area;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

(iv) (A) each member of the taxing entity committee; or

(B) if a taxing entity committee has not yet been formed, the State Board of Education and the legislative body or governing board of each taxing entity.

(2) The mailing of notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-3-401:

(a) (i) a specific description of the boundaries of the economic development project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the description be sent at no cost to the person by mail or facsimile transmission; and

(B) if the agency has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the description;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing; and

(d) a statement of the date, time, and location of the hearing.

(4) The agency shall include in each notice under Subsections (1)(b)(ii), (iii), and (iv):

(a) a statement that property tax revenues resulting from an increase in valuation of property within the economic development project area or proposed project area will be paid to the agency for economic development purposes rather than to the taxing entity to which the tax revenues would otherwise have been paid if:

(i) the taxing entity committee consents to the project area budget; and

(ii) the project area plan provides for the agency to receive tax increment; and

(b) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing.

(5) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose served by the project and any future tax benefits expected to result from the project.

Amended by Chapter 279, 2010 General Session

17C-3-403. Additional requirements for notice of a plan hearing.

Each notice under Section 17C-3-402 of a plan hearing shall include:

(1) a statement that any person objecting to the draft project area plan or contesting the regularity of any of the proceedings to adopt it may appear before the agency board at the hearing to show cause why the draft project area plan should not be adopted; and

(2) a statement that the proposed economic development project area plan is available for inspection at the agency offices.

Enacted by Chapter 359, 2006 General Session

17C-3-404. Additional requirements for notice of a budget hearing.

Each notice under Subsection 17C-3-201(2)(c) of a budget hearing shall contain:

(1) the following statement:

"The (name of agency) has requested $_____ in property tax revenues that will be generated by development within the (name of project area) to fund a portion of project costs within the (name of project area). These property tax revenues will be used for the following: (list major budget categories and amounts). These property taxes will be taxes levied by the following governmental entities, and, assuming current tax rates, the taxes paid to the agency for this project area from each taxing entity will be as follows: (list each taxing entity levying taxes and the amount of total taxes that would be paid from each taxing entity). All of the property taxes to be paid to the agency for the economic development in the project area are taxes that will be generated only if the project area is developed.

All concerned citizens are invited to attend the project area budget hearing scheduled for (date, time, and place of hearing). A copy of the (name of project area) project area budget is available at the offices of (name of agency and office address).";

and

(2) other information that the agency considers appropriate.

Enacted by Chapter 359, 2006 General Session

17C-4-101. Resolution authorizing the preparation of a community development draft project area plan -- Request to adopt resolution.

(1) An agency board may begin the process of adopting a community development project area plan by adopting a resolution that authorizes the preparation of a draft community development project area plan.

(2) (a) Any person or any group, association, corporation, or other entity may submit a written request to the board to adopt a resolution under Subsection (1).

(b) A request under Subsection (2)(a) may include plans showing the community development proposed for an area within the agency's boundaries.

(c) The board may, in its sole discretion, grant or deny a request under Subsection (2)(a).

Enacted by Chapter 359, 2006 General Session

17C-4-102. Process for adopting a community development project area plan -- Prerequisites -- Restrictions.

(1) In order to adopt a community development project area plan, after adopting a resolution under Subsection 17C-4-101(1) the agency shall:

(a) prepare a draft of a community development project area plan and conduct any examination, investigation, and negotiation regarding the project area plan that the agency considers appropriate;

(b) make the draft project area plan available to the public at the agency's offices during normal business hours;

(c) provide notice of the plan hearing as provided in Section 17C-4-402;

(d) hold a public hearing on the draft project area plan and, at that public hearing:

(i) allow public comment on:

(A) the draft project area plan; and

(B) whether the draft project area plan should be revised, approved, or rejected; and

(ii) receive all written and hear all oral objections to the draft project area plan;

(e) after holding the plan hearing, at the same meeting or at one or more subsequent meetings consider:

(i) the oral and written objections to the draft project area plan and evidence and testimony for or against adoption of the draft project area plan; and

(ii) whether to revise, approve, or reject the draft project area plan;

(f) approve the draft project area plan, with or without revisions, as the project area plan by a resolution that complies with Section 17C-4-104; and

(g) submit the project area plan to the community legislative body for adoption.

(2) An agency may not propose a community development project area plan under Subsection (1) unless the community in which the proposed project area is located:

(a) has a planning commission; and

(b) has adopted a general plan under:

(i) if the community is a city or town, Title 10, Chapter 9a, Part 4, General Plan; or

(ii) if the community is a county, Title 17, Chapter 27a, Part 4, General Plan.

(3) (a) Except as provided in Subsection (3)(b), a draft project area plan may not be modified to add real property to the proposed project area unless the board holds a plan hearing to consider the addition and gives notice of the plan hearing as required under Section 17C-4-402.

(b) The notice and hearing requirements under Subsection (3)(a) do not apply to a draft project area plan being modified to add real property to the proposed project area if:

(i) the property is contiguous to the property already included in the proposed project area under the draft project area plan; and

(ii) the record owner of the property consents to adding the real property to the

proposed project area.

Enacted by Chapter 359, 2006 General Session

17C-4-103. Community development project area plan requirements.

Each community development project area plan and draft project area plan shall:

(1) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(2) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the community development;

(3) state the standards that will guide the community development;

(4) show how the purposes of this title will be attained by the community development;

(5) be consistent with the general plan of the community in which the project area is located and show that the community development will conform to the community's general plan;

(6) describe any specific project or projects that are the object of the proposed community development;

(7) identify how private developers, if any, will be selected to undertake the community development and identify each private developer currently involved in the community development process;

(8) state the reasons for the selection of the project area;

(9) describe the physical, social, and economic conditions existing in the project area;

(10) describe any tax incentives offered private entities for facilities located in the project area;

(11) include an analysis or description of the anticipated public benefit to be derived from the community development, including:

(a) the beneficial influences upon the tax base of the community; and

(b) the associated business and economic activity likely to be stimulated; and

(12) include other information that the agency determines to be necessary or advisable.

Enacted by Chapter 359, 2006 General Session

17C-4-104. Board resolution approving a community development project area plan -- Requirements.

Each board resolution approving a draft community development project area plan as the project area plan under Subsection 17C-4-102(1)(f) shall contain:

(1) a legal description of the boundaries of the project area that is the subject of the project area plan;

(2) the agency's purposes and intent with respect to the project area;

(3) the project area plan incorporated by reference; and

(4) the board findings and determinations that adoption of the community development project area plan will:

(a) satisfy a public purpose;

(b) provide a public benefit as shown by the analysis described in Subsection 17C-4-103(11);

(c) be economically sound and feasible;

(d) conform to the community's general plan; and

(e) promote the public peace, health, safety, and welfare of the community in which the project area is located.

Enacted by Chapter 359, 2006 General Session

17C-4-105. Community development plan to be adopted by community legislative body.

(1) A community development project area plan approved by board resolution under Section 17C-4-104 may not take effect until it has been adopted by ordinance of the legislative body of the community that created the agency and notice under Section 17C-4-106 is provided.

(2) Each ordinance under Subsection (1) shall:

(a) be adopted by the community legislative body after the board's approval of a resolution under Section 17C-4-104; and

(b) designate the approved project area plan as the official community development plan of the project area.

Enacted by Chapter 359, 2006 General Session

17C-4-106. Notice of community development project area plan adoption -- Effective date of plan -- Contesting the formation of the plan.

(1) (a) Upon the community legislative body's adoption of a community development project area plan, the legislative body shall provide notice as provided in Subsection (1)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published in accordance with Section 45-1-101.

(b) Each notice under Subsection (1)(a) shall:

(i) set forth the community legislative body's ordinance adopting the community development project area plan or a summary of the ordinance; and

(ii) include a statement that the project area plan is available for general public inspection and the hours for inspection.

(2) The community development project area plan shall become effective on the date of:

(a) if notice was published under Subsection (1)(a), publication of the notice; or

(b) if notice was posted under Subsection (1)(a), posting of the notice.

(3) (a) For a period of 30 days after the effective date of the community development project area plan under Subsection (2), any person in interest may contest

the project area plan or the procedure used to adopt the project area plan if the plan or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (3)(a) expires, no person may contest the community development project area plan or procedure used to adopt the project area plan for any cause.

(4) Upon adoption of the community development project area plan by the community's legislative body, the agency may carry out the project area plan.

(5) Each agency shall make the adopted project area plan available to the general public at its offices during normal business hours.

Amended by Chapter 388, 2009 General Session

17C-4-107. Agency required to transmit and record documents after adoption of community development project area plan.

Within 30 days after the community legislative body adopts, under Section 17C-4-105, a community development project area plan, the agency shall:

(1) record with the recorder of the county in which the project area is located a document containing:

(a) a description of the land within the project area;

(b) a statement that the project area plan for the project area has been adopted; and

(c) the date of adoption;

(2) transmit a copy of the description of the land within the project area and an accurate map or plat indicating the boundaries of the project area to the Automated Geographic Reference Center created under Section 63F-1-506; and

(3) for a project area plan that provides for the payment of tax increment to the agency, transmit a copy of the description of the land within the project area, a copy of the community legislative body ordinance adopting the project area plan, and a map or plat indicating the boundaries of the project area to:

(a) the auditor, recorder, attorney, surveyor, and assessor of each county in which any part of the project area is located;

(b) the officer or officers performing the function of auditor or assessor for each taxing entity that does not use the county assessment roll or collect its taxes through the county;

(c) the legislative body or governing board of each taxing entity;

(d) the State Tax Commission; and

(e) the State Board of Education.

Enacted by Chapter 359, 2006 General Session

17C-4-108. Amending a community development project area plan.

(1) Except as provided in Subsection (2), the requirements under this part that apply to adopting a community development project area plan apply equally to a proposed amendment of a community development project area plan as though the amendment were a proposed project area plan.

(2) (a) Notwithstanding Subsection (1), an adopted project area plan may be

amended without complying with the notice and public hearing requirements of this part if the proposed amendment:

(i) makes a minor adjustment in the legal description of a project area boundary requested by a county assessor or county auditor to avoid inconsistent property boundary lines; or

(ii) subject to Subsection (2)(b), removes a parcel of real property from a project area because the agency determines that inclusion of the parcel is no longer necessary or desirable to the project area.

(b) An amendment removing a parcel of real property from a community development project area under Subsection (2)(a)(ii) may not be made without the consent of the record property owner of the parcel being removed.

(3) (a) An amendment approved by board resolution under this section may not take effect until adopted by ordinance of the legislative body of the community in which the project area that is the subject of the project area plan being amended is located.

(b) Upon a community legislative body passing an ordinance adopting an amendment to a community development project area plan, the agency whose project area plan was amended shall comply with the requirements of Sections 17C-4-106 and 17C-4-107 to the same extent as if the amendment were a project area plan.

Enacted by Chapter 359, 2006 General Session

17C-4-201. Consent of a taxing entity or public entity to an agency receiving tax increment or sales tax funds for community development project.

(1) An agency may negotiate with a taxing entity and public entity for the taxing entity's or public entity's consent to the agency receiving the entity's or public entity's tax increment or sales tax revenues, or both, for the purpose of providing funds to carry out a proposed or adopted community development project area plan.

(2) The consent of a taxing entity or public entity under Subsection (1) may be expressed in:

(a) a resolution adopted by the taxing entity or public entity; or

(b) an interlocal agreement, under Title 11, Chapter 13, Interlocal Cooperation Act, between the taxing entity or public entity and the agency.

(3) Before an agency may use tax increment or sales tax revenues collected under a resolution or interlocal agreement adopted for the purpose of providing funds to carry out a proposed or adopted community development project area plan, the agency shall:

(a) obtain a written certification, signed by an attorney licensed to practice law in this state, stating that the agency and the taxing entity have each followed all legal requirements relating to the adoption of the resolution or interlocal agreement, respectively; and

(b) provide a signed copy of the certification described in Subsection (3)(a) to the appropriate taxing entity.

(4) A resolution adopted or interlocal agreement entered under Subsection (2) on or after March 30, 2009 shall specify:

(a) if the resolution or interlocal agreement provides for the agency to be paid tax increment:

(i) the method of calculating the amount of the taxing entity's tax increment from the project area that will be paid to the agency, including the agreed base year and agreed base taxable value;

(ii) the number of tax years that the agency will be paid the taxing entity's tax increment from the project area; and

(iii) the percentage of the taxing entity's tax increment or maximum cumulative dollar amount of the taxing entity's tax increment that the agency will be paid; and

(b) if the resolution or interlocal agreement provides for the agency to be paid a public entity's sales tax revenue:

(i) the method of calculating the amount of the public entity's sales tax revenue that the agency will be paid;

(ii) the number of tax years that the agency will be paid the sales tax revenue; and

(iii) the percentage of sales tax revenue or the maximum cumulative dollar amount of sales tax revenue that the agency will be paid.

(5) (a) Unless the taxing entity otherwise agrees, an agency may not be paid a taxing entity's tax increment:

(i) that exceeds the percentage or maximum cumulative dollar amount of tax increment specified in the resolution or interlocal agreement under Subsection (2); or

(ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).

(b) Unless the public entity otherwise agrees, an agency may not be paid a public entity's sales tax revenue:

(i) that exceeds the percentage or maximum cumulative dollar amount of sales tax revenue specified in the resolution or interlocal agreement under Subsection (2); or

(ii) for more tax years than specified in the resolution or interlocal agreement under Subsection (2).

(6) A school district may consent to an agency receiving tax increment from the school district's basic levy only to the extent that the school district also consents to the agency receiving tax increment from the school district's local levy.

(7) (a) A resolution or interlocal agreement under this section may be amended from time to time.

(b) Each amendment of a resolution or interlocal agreement shall be subject to and receive the benefits of the provisions of this part to the same extent as if the amendment were an original resolution or interlocal agreement.

(8) A taxing entity's or public entity's consent to an agency receiving funds under this section is not subject to the requirements of Section 10-8-2.

(9) (a) For purposes of this Subsection (9), "successor taxing entity" means any taxing entity that:

(i) is created after the date of adoption of a resolution or execution of an interlocal agreement under this section; and

(ii) levies a tax on any parcel of property located within the project area that is the subject of the resolution or the interlocal agreement described in Subsection (9)(a)(i).

(b) A resolution or interlocal agreement executed by a taxing entity under this section may be enforced by or against any successor taxing entity.

Amended by Chapter 279, 2010 General Session

17C-4-202. Resolution or interlocal agreement to provide funds for the community development project area plan -- Notice -- Effective date of resolution or interlocal agreement -- Time to contest resolution or interlocal agreement -- Availability of resolution or interlocal agreement.

(1) The approval and adoption of each resolution or interlocal agreement under Subsection 17C-4-201(2) shall be in an open and public meeting.

(2) (a) Upon the adoption of a resolution or interlocal agreement under Section 17C-4-201, the agency shall provide notice as provided in Subsection (2)(b) by:

(i) (A) publishing or causing to be published a notice in a newspaper of general circulation within the agency's boundaries; or

(B) if there is no newspaper of general circulation within the agency's boundaries, causing a notice to be posted in at least three public places within the agency's boundaries; and

(ii) publishing or causing to be published a notice on the Utah Public Notice Website created in Section 63F-1-701.

(b) Each notice under Subsection (2)(a) shall:

(i) set forth a summary of the resolution or interlocal agreement; and

(ii) include a statement that the resolution or interlocal agreement is available for general public inspection and the hours of inspection.

(3) The resolution or interlocal agreement shall become effective on the date of:

(a) if notice was published under Subsection (2)(a)(i)(A) or (ii), publication of the notice; or

(b) if notice was posted under Subsection (2)(a)(i)(B), posting of the notice.

(4) (a) For a period of 30 days after the effective date of the resolution or interlocal agreement under Subsection (3), any person in interest may contest the resolution or interlocal agreement or the procedure used to adopt the resolution or interlocal agreement if the resolution or interlocal agreement or procedure fails to comply with applicable statutory requirements.

(b) After the 30-day period under Subsection (4)(a) expires, a person may not, for any cause, contest:

(i) the resolution or interlocal agreement;

(ii) a payment to the agency under the resolution or interlocal agreement; or

(iii) the agency's use of tax increment under the resolution or interlocal agreement.

(5) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 and each taxing entity or public entity that approves a resolution or enters into an interlocal agreement under Section 17C-4-201 shall make the resolution or interlocal agreement, as the case may be, available at its offices to the general public for inspection and copying during normal business hours.

Amended by Chapter 90, 2010 General Session
Amended by Chapter 279, 2010 General Session

17C-4-203. Requirement to file a copy of the resolution or interlocal agreement -- County payment of tax increment to the agency.

(1) Each agency that is to receive funds under a resolution or interlocal agreement under Section 17C-4-201 shall, within 30 days after the effective date of the resolution or interlocal agreement, file a copy of it with:

(a) the State Tax Commission, the State Board of Education, and the state auditor; and

(b) the auditor of the county in which the project area is located, if the resolution or interlocal agreement provides for the agency to receive tax increment from the taxing entity or public entity that adopted the resolution or entered into the interlocal agreement.

(2) Each county that collects property tax on property within a community development project area shall, in the manner and at the time provided in Section 59-2-1365, pay and distribute to the agency the tax increment that the agency is entitled to receive under a resolution approved or an interlocal agreement adopted under Section 17C-4-201.

Amended by Chapter 387, 2009 General Session

17C-4-204. Adoption of a budget for a community development project area plan -- Amendment.

(1) An agency may prepare and, by resolution adopted at a regular or special meeting of the agency board, adopt a budget setting forth:

(a) the anticipated costs, including administrative costs, of implementing the community development project area plan; and

(b) the tax increment, sales tax, and other revenue the agency anticipates receiving to fund the project.

(2) An agency may, by resolution adopted at a regular or special meeting of the agency board, amend a budget adopted under Subsection (1).

(3) Each resolution to adopt or amend a budget under this section shall appear as an item on the agenda for the regular or special agency board meeting at which the resolution is adopted without additional required notice.

(4) An agency is not required to obtain approval of the taxing entity committee for a community development project area budget.

Amended by Chapter 43, 2011 General Session

17C-4-301. Continuing a plan hearing.

Subject to Section 17C-4-302, a board may continue a plan hearing from time to time.

Enacted by Chapter 359, 2006 General Session

17C-4-302. Notice required for continued hearing.

The board shall give notice of a hearing continued under Section 17C-4-301 by announcing at the hearing:

(1) the date, time, and place the hearing will be resumed; or

(2) that it is being continued to a later time and causing a notice of the continued hearing to be:

(a) (i) published once in a newspaper of general circulation within the agency boundaries at least seven days before the hearing is scheduled to resume; or

(ii) if there is no newspaper of general circulation, posted in at least three conspicuous places within the boundaries of the agency in which the project area or proposed project area is located; and

(b) published on the Utah Public Notice Website created in Section 63F-1-701, at least seven days before the hearing is schedule to resume.

Amended by Chapter 90, 2010 General Session

17C-4-401. Agency required to provide notice of plan hearing.

Each agency shall provide notice of each plan hearing as provided in Section 17C-4-402.

Enacted by Chapter 359, 2006 General Session

17C-4-402. Requirements for notice provided by agency.

(1) The notice required by Section 17C-4-401 shall be given by:

(a) (i) publishing one notice, excluding the map referred to in Subsection (2)(b), in a newspaper of general circulation within the county in which the project area or proposed project area is located, at least 14 days before the hearing;

(ii) if there is no newspaper of general circulation, posting notice, at least 14 days before the hearing, in at least three conspicuous places within the county in which the project area or proposed project area is located; or

(iii) posting notice, excluding the map described in Subsection (3)(b), at least 14 days before the day on which the hearing is held on:

(A) the Utah Public Notice Website described in Section 63F-1-701; and

(B) the public website of a community located within the boundaries of a project area; and

(b) at least 30 days before the hearing, mailing notice to:

(i) each record owner of property located within the project area or proposed project area;

(ii) the State Tax Commission;

(iii) the assessor and auditor of the county in which the project area or proposed project area is located; and

(iv) the State Board of Education and the legislative body or governing board of each taxing entity.

(2) The mailing of the notice to record property owners required under Subsection (1)(b)(i) shall be conclusively considered to have been properly completed if:

(a) the agency mails the notice to the property owners as shown in the records, including an electronic database, of the county recorder's office and at the addresses shown in those records; and

(b) the county recorder's office records used by the agency in identifying owners to whom the notice is mailed and their addresses were obtained or accessed from the county recorder's office no earlier than 30 days before the mailing.

(3) The agency shall include in each notice required under Section 17C-4-401:

(a) (i) a specific description of the boundaries of the project area or proposed project area; or

(ii) (A) a mailing address or telephone number where a person may request that a copy of the description be sent at no cost to the person by mail or facsimile transmission; and

(B) if the agency has an Internet website, an Internet address where a person may gain access to an electronic, printable copy of the description;

(b) a map of the boundaries of the project area or proposed project area;

(c) an explanation of the purpose of the hearing;

(d) a statement of the date, time, and location of the hearing;

(e) an invitation to the recipient of the notice to submit to the agency comments concerning the subject matter of the hearing before the date of the hearing;

(f) a statement that any person objecting to the draft project area plan or contesting the regularity of any of the proceedings to adopt it may appear before the agency board at the hearing to show cause why the draft project area plan should not be adopted; and

(g) a statement that the proposed project area plan is available for inspection at the agency offices.

(4) An agency may include in a notice under Subsection (1) any other information the agency considers necessary or advisable, including the public purpose served by the project and any future tax benefits expected to result from the project.

Amended by Chapter 279, 2010 General Session